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Sup. Ct.

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 521

PITTSBURGH PLATE GLASS COMPANY,
PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD

No. 523

CRYSTAL CITY GLASS WORKERS' UNION,
PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITIONS FOR CERTIORARI FILED { OCTOBER 22, 1940.
OCTOBER 26, 1940.

CERTIORARI GRANTED DECEMBER 2, 1940.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1940

No.

PITTSBURGH PLATE GLASS COMPANY AND CRYSTAL CITY GLASS WORKERS' UNION, PETITIONERS,

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NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

INDEX.

	Original	Print
Proceedings in U. S. C. C. A., Eighth Circuit	1	1
Certificate of National Labor Relations Board	1	1
Proceedings before National Labor Relations Board	5	4
Transcript of testimony before Trial Examiner—March 6, 1939, Case No. VI-C-319	5	4
Caption and appearances	6	4
Colloquy	9	5
Testimony of Paul W. Fuller	26	15
Alfonse L. Laiben	35	22
Board's Exhibits:		
1-a—Original complaint	58	34
Notice of hearing	61	37
Charge	63	38
1-c—Application for extension of time for filing answer	64	39
1-d—Order extending time for filing answer	65	39
1-f—Answer to complaint	66	40
1-g—Order designating trial examiner	70	42

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., SEPT. 24, 1940.

—9891

	Original	Print
Proceedings before National Labor Relations Board—Continued		
Transcript of testimony before Trial Examiner—March 6, 1939, Case No. VI-C-319—Continued		
Board's Exhibit—Continued		
2—Decision and certification in Case No. R-1058	72	43
3-a—Transcript of testimony before trial examiner—Case No. VI-R-91	89	57
Caption and appearances—October 13, 1938	90	57
Testimony of Robert L. Clause	117	73
L. L. Chandler	213	132
Caption and appearances—October 14, 1938	263	162
Testimony of Erwin L. DeShetler	266	162
Robert McVay	297	182
E. J. Pallard	353	216
R. L. Clause	381	234
Fred Keightley	387	237
Alphonse Laiben	399	245
Charles Doan Noce	415	255
Fred Keightley (recalled)	417	257
Leslie Maupin	418	258
Monroe Vaughn	427	263
5-a to 5-f, inc—Correspondence between Union and Company	439	271
3-b—Exhibits in Case No. VI-R-91:		
"P-1"—Agreement governing wages, etc., of Federation of Flat Glass Workers of America, November 13, 1934	446	275
"P-2"—Same, February 5, 1935	454	282
"P-3"—Same, November 26, 1935	462	290
"P-4"—Same, January 20, 1937	502	321
3-c—Stipulation to correct record in case No. VI-R-91	512	336
Respondent's Exhibit 1—Decision and order of Board, Case No. C-778	519	343
Board's Exhibit 3-b—Exhibits in case No. VI-R-91	527	352
Board's Exhibits:		
1-a—Notice of hearing	527	352
Petition for investigation and certification of representatives	529	354
Amended petition	530	354
1-b—Order of consolidation and directing investigation, etc.	532	355
1-c—Order of severance	533	356
Order designating trial examiner	534	357
2—Motion of Crystal City Glass Workers' Union for leave to intervene	536	357
3—Stipulation re certain facts	538	359

	Original	Print
Proceedings before National Labor Relations Board—Continued		
Transcript of testimony before Trial Examiner—March 6, 1939, Case No. VI-C-319—Continued		
Proceedings in Case No. VI-R-91	545	364
Request for oral argument, etc.	545	364
Notice of hearing	547	365
Recital as to hearing	547	365
Proceedings in Case No. VI-C-319	549	366
Motion of Crystal City Glass Workers' Union for leave to intervene	549	366
Respondent's statement of exceptions	552	368
Respondent's request for oral argument, etc.	593	410
Exceptions of intervenor	595	411
Intervenor's request for oral argument, etc.	608	426
Notice of hearing	610	427
Notices of postponement of hearing (omitted in printing)	611	
Notice of hearing	617	427
Recital as to hearing	622	429
Decision and order	623	430
Statement of case	623	430
Findings of fact	628	436
Conclusions of law	636	446
Order	637	447
Leiserson, M., dissenting	638	448
Affidavit as to service	642	452
Proceedings in U. S. C. C. A., Eighth Circuit	644	453
Caption (omitted in printing)	644	
Appearances of counsel (omitted in printing)	645	
Petition for review of decision and certification of Board—Case No. 449, Original	649	453
Exhibit "A"—Decision and certification of Board, Case No. R-1058 (copy) (omitted in printing)	665	
Petition for review of order of Board—Case No. 450, Original	682	469
Exhibit "A"—Decision and order of Board, Case No. C-1222 (copy) (omitted in printing)	722	
Petition for review and to set aside order of Board—Case No. 451, Original	738	507
Petition for order consolidating petitions for review in Cases No. 449 and 450	752	517
Notice of petition for consolidation	755	519
Order consolidating cases No. 449 and 450	757	521
Petition for order consolidating cases No. 450 and 451	758	521
Order consolidating cases No. 450 and 451	761	523
Motion to dispense with reproduction of certain exhibits	762	523
Consents to granting of motion	764	525
Order granting motion	766	526
Answer to petition for review—No. 449	767	527
Answer to petition for review—No. 450	773	531
Answer to petition for review—No. 451	778	535

	Original	Print
Petition for leave to adduce additional evidence—No. 450..	781	536
Petition for leave to adduce additional evidence—No. 451..	787	540
Suggestions concerning petition for leave to adduce additional evidence—Nos. 449-450	790	543
Order of submission	792	544
Opinion, Sanborn, J.	793	545
Decree	802	552
Motion of petitioner Pittsburgh Plate Glass Company for rehearing	804	553
Petition of petitioner Crystal City Glass Workers' Union for rehearing	823	568
Order denying petitions for rehearing	829	571
Motions of petitioners for stay of mandate	830	572
Order staying issuance of certified copy of decree	832	574
Stipulation as to contents of transcript of record	833	574
Additional stipulation as to contents of transcript of record.	836	576
Clerk's certificate (omitted in printing)	838	
Order allowing certiorari		578

[fol. 1]

IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 449 Orig.

PITTSBURGH PLATE GLASS COMPANY, Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD, FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with the Congress of Industrial Organizations, Crystal City Glass Workers' Union, Respondents

No. 450 Orig.

PITTSBURGH PLATE GLASS COMPANY, Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD, FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with the Congress of Industrial Organizations, Crystal City Glass Workers' Union, Respondents

No. 451 Orig.

CRYSTAL CITY GLASS WORKER'S UNION, a Corporation, Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD, Respondent

CERTIFICATE OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board by its Secretary, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board, Series 2, [fol. 2] hereby certifies that the *the* entire record in a proceeding had before said Board entitled "In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with C. I. O.," the same being Cases Nos. R-1058 and C-1222 before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceed-

ing was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Petition for investigation and certification of representatives filed by Federation of Flat Glass Workers of America, affiliated with C. I. O., sworn to April 4, 1938.

2. Amended petition for investigation and certification of representatives filed by said union, and sworn to May 13, 1938.

3. Notice of hearing issued by the National Labor Relations Board, dated September 27, 1938.

4. Copy of order of consolidation and directing investigation and hearing, dated May 26, 1938.

5. Copy of order of severance, dated July 21, 1938.

6. Motion for leave to intervene filed by Crystal City Glass Workers Union, a corporation, sworn to October 13, 1938.

7. Certified copy of order designating Tilford E. Dudley, Trial Examiner for the National Labor Relations Board, in place and stead of Joseph L. Maguire, dated October 12, 1938.

8. Stenographic transcript of testimony before Tilford E. Dudley, Trial Examiner for the National Labor Relations Board, on October 13 and 14, 1938, together with all exhibits introduced in evidence.

9. Copy of respondent's request for permission to file brief and to make oral argument, dated October 19, 1938.

10. Copy of letter, dated October 21, 1938, granting permission to file brief.

11. Copy of notice of hearing for the purpose of oral argument, dated November 19, 1938.

[fol. 3] 12. Copy of list of appearances at oral argument held December 20, 1938.

13. Certified copy of decision, findings of fact, conclusions of law, and certification of representatives issued by the National Labor Relations Board January 13, 1939.

14. Charge filed by Federation of Flat Glass Workers of America, affiliated with C. I. O., sworn to January 26, 1939.

15. Complaint and notice of hearing issued by the National Labor Relations Board, dated February 20, 1939.

16. Respondent's application for extension of time for filing answer, dated February 23, 1939.

17. Order extending time for filing answer, dated February 23, 1939.

18. Respondent's answer to the complaint, sworn to March 3, 1939.

19. Certified copy of order designating Webster Powell Trial Examiner for the National Labor Relations Board, dated March 3, 1939.

20. Copy of motion for leave to intervene filed by Crystal City Glass Workers' Union, a corporation, sworn to March 1, 1939.

Documents listed hereinabove under items 1-8, inclusive, and items 13-19, inclusive, are contained in the exhibits and included under the following item:

21. Stenographic transcript of testimony before Webster Powell, Trial Examiner for the National Labor Relations Board, on March 6, 1939, together with all exhibits introduced in evidence.

22. Copy of Intermediate Report of Trial Examiner Powell, dated March 18, 1939.

23. Copy of respondent's exceptions to Intermediate Report.

24. Copy of respondent's request for permission to file brief and make oral argument.

25. Copy of letter, dated March 30, 1939, granting permission to file brief.

26. Copy of intervenor's exceptions to Intermediate Report.

[fols. 4-5] 27. Copy of intervenor's request for leave to file brief and to make oral argument.

28. Copy of letter, dated April 3, 1939, granting permission to file brief.

29. Copy of notice of hearing for the purpose of oral argument, dated April 12, 1939.

30. Copy of notice of postponement of hearing for the purpose of oral argument, dated April 29, 1939, together with telegraphic notice of same.

31. Copy of notice of postponement of hearing for purpose of oral argument, dated May 19, 1939, together with telegraphic notice of same.

32. Copy of notice of postponement of hearing for purpose of oral argument, dated May 20, 1939, together with telegraphic notice of same.

33. Copy of notice of hearing for purpose of oral argu-

ment, dated May 25, 1939, together with telegraphic notice of same.

34. Copy of union's telegram, dated May 25, 1939, requesting postponement of oral argument.

35. Copy of notice of postponement of hearing for purpose of oral argument, dated May 27, 1939, together with telegraphic notice of same.

36. Copy of list of appearances at oral argument held June 8, 1939.

37. Stenographic transcript of oral argument held before the Board June 8, 1939.

38. Copy of decision, findings of fact, conclusions of law, and order issued by the National Labor Relations Board September 19, 1939, together with affidavit of service and United States Post Office return receipts thereof.

In Testimony Whereof the Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the City of Washington, District of Columbia, this 5th day of January, 1940.

Nathan Witt, Secretary, National Labor Relations Board. (Seal.)

[fols. 6-8] BEFORE NATIONAL LABOR RELATIONS BOARD, SIXTH REGION

Case No. VI-C-319

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with the C. I. O.

Court Room No. 6, Federal Bldg.,
Pittsburgh, Pennsylvania,
March 6, 1939.

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 o'clock, a. m.

BEFORE:

Webster Powell, Trial Examiner.

APPEARANCES:

Robert H. Kleeb, Esq., Attorney for the National Labor Relations Board.

W. T. Lewis, Esq., and H. B. Holmes, Esq., 35 East Gay St., Columbus, Ohio, on behalf of the Federation of Flat Glass Workers of America.

Smith, Buchanan, and Ingersoll, 1025 Union Trust Bldg., Pittsburgh, Penna., by John G. Buchanan, Esq., William J. Kyle, Jr., Esq., Donald L. McCaskey, Esq., on behalf of the Pittsburgh Plate Glass Company.

Igoe, Carroll, Keefe and McAfee, Boatmen's Bank Bldg., St. Louis, Mo., on behalf of the Pittsburgh Plate Glass Company.

Fred J. Hoffmeister, Esq., 208 N. Broadway, St. Louis, Mo., on behalf of Crystal City Glass Workers Union.

[fol. 9] Proceedings

Trial Examiner Powell: The hearing will please come to order.

Will counsel for the parties in this case announce their appearances at this time, formally, for the record?

Mr. Kleeb: Robert H. Kleeb, Attorney for the Board.

Mr. Buchanan: John G. Buchanan, William J. Kyle, Jr., and Donald L. McCaskey, for the Pittsburgh Plate Glass Company.

Mr. Hoffmeister: Fred J. Hoffmeister, 208 N. Broadway, St. Louis, Missouri, for the Intervener, Crystal City Glass Workers Union.

Mr. Lewis: W. T. Lewis, and H. B. Holmes, for the Federation of Flat Glass Workers of America.

Trial Examiner Powell: I wish to inform all parties that the Board's reporter makes the only official transcript of these proceedings. Citations on briefs or on argument, based upon the record, must cite the official transcript in all references to the record. The Board will not certify any transcript other than the official one for use in court.

Counsel for the Board may proceed if he is ready.

Mr. Kleeb: If the Trial Examiner please, this proceeding is Case No. VI-C-319, involving the Pittsburgh Plate Glass Company, Respondent. The hearing is based upon charges brought by the Federation of Flat Glass Workers of America, affiliated with the Congress of Industrial Organ-[fol. 10] izations, against the company, alleging violation of section 8, subsections 1 and 5 of the Act.

I wish at this time to offer in evidence as Board's Exhibit 1-A, the original complaint which has attached thereto the

original charge which was filed January 26, 1939, and also attached to the original complaint a copy of Board's rules and regulations as amended; Board's Exhibit 1-B, proof of service of the complaint upon the respondent company and upon the Federation of Flat Glass Workers of America; as Board's Exhibit 1-C, the application of respondent's counsel for extension of time for filing answer from the date set in the notice of hearing to March 3, 1939; as Board's Exhibit 1-D, the order of Charles T. Douds, Regional Director, extending the time of filing the answer to March 3, 1939, as requested; as Board's Exhibit 1-E, affidavit of service of order, extending the time for filing answer upon the respondent and Federation of Flat Glass Workers of America; as Board's Exhibit 1-F, the original answer of the respondent to the Board's complaint; as Board's Exhibit 1-G, certified copy of the order of the Board, designating Webster Powell Trial Examiner in this hearing.

Mr. Buchanan: No objection.

Trial Examiner Powell: Are there any objections?

Mr. Lewis: No objection.

Mr. Buchanan: No objections, Mr. Examiner.

[fol. 11] Trial Examiner Powell: Documents offered in evidence as Board's Exhibits 1-A through G, may be received in evidence as Board's Exhibits 1-A to 1-G, inclusive.

(Thereupon, the documents above referred to, marked as Board's Exhibits 1-A to 1-G, inclusive, for identification, were received in evidence as Board's Exhibits 1-A to 1-G, inclusive.)

Mr. Kleeb: Referring to the pleadings, if the Trial Examiner please, counsel for the Board wishes to state the following:

Respondent, in its answer, admits the allegations in paragraph 1 of the complaint, but corrects the date of incorporation of the company of the same name as the respondent, and to which respondent is the successor, from August 24, 1908, to May 3, 1907.

Counsel for the Board admits this correction and will offer no evidence with respect thereto.

Respondent, in its answer, admits the allegations in paragraph 2 of the complaint, but corrects the classification of the five divisions of respondent's operations from "commercial, chemical, paint brush, and flat glass" to "1, glass;

2, chemicals; 3, cement; 4, paint, varnish and lacquer; and 5, brushes".

Counsel for the Board admits this correction and will offer no evidence with respect thereto except in establishing by the pleadings and by proof that within the glass division [fol. 12] of respondent the flat glass plants constitute the flat glass division.

Respondent further states in its answer to paragraph 2 that the products mentioned therein are not the only products of the respondent.

Counsel for the Board admits this to be true.

Respondent, in its answer, admits the allegations in paragraph 3 of the complaint, that "respondent's plants in its flat glass division, are located in Creighton, Pennsylvania; Ford City, Pennsylvania; Crystal City, Missouri; Henryetta, Oklahoma; Mt. Vernon, Ohio; and Clarksburg, West Virginia.

Respondent in its answer in paragraph 5 admits the allegations of the complaint in paragraph 5.

Counsel for the Board offers paragraph 5 in evidence.

Mr. Buchanan: No objections.

Mr. Kleeb: Respondent in its answer in paragraph 7 admits the allegations in the complaint in paragraph 7.

Counsel for the Board offers said paragraph 7 of the complaint in evidence.

Mr. Buchanan: You are passing over paragraph 6?

Mr. Kleeb: Passing over 6. You don't quite admit the allegations.

No objection to paragraph 7?

Mr. Buchanan: No, no objection.

Mr. Kleeb: Respondent in its answer in paragraph 6, in [fol. 13] substance, admits the allegations of the complaint, except that the respondent refers specifically to the written decision of the Board. The allegations of paragraph 6 of the complaint as admitted are offered in evidence.

Mr. Buchanan: If the Examiner please, just in order that the record may be exact, we merely agree that the Board decided as it did decide in its order, and I think it would be more orderly if those proceedings were simply offered in evidence, than if any attempt were made to say we admit what is referred to in paragraph 6, because we don't do it in the form there alleged.

Mr. Kleeb: Then it is understood that in due time the

counsel for the Board will offer in evidence the Board's decision of that proceeding.

In paragraph 8 of the answer respondent admits the allegations in the complaint in paragraph 8, in that it refused to bargain with the Federation of Flat Glass Workers of America, which had been duly certified by the National Labor Relations Board, but questions the appropriateness of the unit found by the Board.

Counsel for the Board wishes to offer in evidence that paragraph in the complaint, namely paragraph 8, insofar as it establishes by admission refusal of the respondent to bargain with the duly certified representative.

Mr. Buchanan: That is admitted, Mr. Examiner. The [fol. 14] matter is all covered by certain letters, which I presume Mr. Kleeb will offer in evidence, the effect of which is in a very general way correctly stated in the paragraph of the complaint.

Mr. Kleeb: That is right, Mr. Buchanan, and that will be done.

If the Trial Examiner please, before proceeding to the merits, because I understand there is some question of intervening, I might suggest at this time that that question be determined.

Mr. Hoffmeister: If the Trial Examiner please, on behalf of the Crystal City Glass Workers Union of Crystal City, Missouri, I desire to file a motion to intervene, copies of which are attached.

(Presenting motion to Trial Examiner Powell.)

Trial Examiner Powell: Mr. Hoffmeister, was the Crystal City Glass Workers Union represented at the previous hearing, the representation hearing?

Mr. Hoffmeister: Yes, the Crystal City Glass Workers Union was represented at that time and the Trial Examiner held the Crystal City Glass Workers Union was a party at that hearing.

Trial Examiner Powell: And you presented testimony and cross examined witnesses at that time, is that correct?

Mr. Hoffmeister: Presented certain testimony at that time, yes.

[fol. 15] Mr. Kleeb: If the Trial Examiner please, in the decision of the Board, decision and certification of representation in Case No. R-1058, decided January 13, 1939, the Board used this language: ". . . however, the Crystal City

Union, by virture of the Board's decision and order in Case No. C-778 (footnote-designated as 8-NLRB-149, dated September 22, 1938) based on a stipulation entered into by the company, the Board and the federation, requiring the company to cease and desist from 'recognizing or dealing with the Crystal City Glass Workers Union as a labor organization, or any person or group of persons purporting to represent said organization' ceased to be able to function as a labor organization within the meaning of section 2(5) of the Act and its existence as such at Crystal City then terminated.

"The company has emphasized the fact that in opposition to the wishes and attempts of the federation to include the Crystal City plant in a unit within the other glass plants, there must be considered the wishes of Crystal City Union and the 1300 employees at Crystal City who signed a petition asking for separate unit at Crystal City. Since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial."

Trial Examiner Powell: May I see that just a moment? I want to read the exact language.

Mr. Kleeb: I would like to state for this reason, namely, [fol. 16] the opinion of the Board in that decision, counsel for the Board at this time objects to the intervention of this organization in this proceeding.

Mr. Lewis: On behalf of the Federation of Flat Glass Workers of America, I wish to join counsel for the Board in objecting.

Mr. Buchanan: Mr. Examiner, on behalf of the Pittsburgh Plate Glass Company, I submit that the intervention of the Crystal City Glass Workers Union is essential to a fair hearing of the issues in this case, which deal with the representative for collective bargaining at the Crystal City plant as well as the other plants of the company.

It seems to me that the case shown by the motion to intervene, which has been filed with your Honor, is an even stronger case by reason of change of circumstance, than was made out by the Crystal City Glass Workers Union for certification of that union as the representative for purposes of collective bargaining at the Crystal City plant, and unless the Crystal City Glass Workers Union is heard upon this issue, it will be denied due process of law, and the company also will be deprived of the benefit of a fair hearing on a matter which is not inter partes, but concerns all of

the employees of the company, as well as the company itself.

For these reasons, among other, I submit the motion to intervene should be granted.

[fol. 17] Trial Examiner Powell: Off the record.

(Discussion off the record.)

Trial Examiner Powell: We will take a fifteen minute recess at this time unless you have further argument.

(Whereupon, a short recess was taken.)

Trial Examiner Powell: The hearing will resume.

Now, let's see what the state of the record is. Read back that last part.

(Reporter read the previous statements.)

Trial Examiner Powell: Is there anything that you care to add to that? We had some discussion off the record which was not incorporated in the record.

Mr. Buchanan: Yes, Mr. Examiner, I have been thinking about the matter during recess, and I think that the interests of the company in having every one heard with regard to the question as to whether there has been an unfair labor practice by the refusal to bargain collectively with the Federation of Flat Glass Workers of America for employees of the Crystal City plant, suggest that the company join in the motion that leave to intervene be granted the Crystal City Glass Workers Union.

Accordingly, on behalf of the Pittsburgh Plate Glass Company, I move that leave to intervene in this proceeding be granted to the Crystal City Glass Workers Union for the reasons shown in the motion filed by that union.

[fol. 18] Mr. Lewis: Mr. Examiner, on behalf of the Federation of Flat Glass Workers of America, at this time I wish to make objection to the motion of the Crystal City Glass Workers Union to intervene in this case, due to the fact that as I understand this case, this is a complaint charge filed by the Federation of Flat Glass Workers against the Pittsburgh Plate Glass Company, respondent, charging them with refusal to bargain.

We are not concerned in this case with the unit issue. The unit issue has been decided by the Board on January 13, 1939, and by this decision the Board has held that the Crystal City plant was part of the appropriate unit and, therefore, they certified the Federation of Flat Glass Work-

ers of America as bargaining agent, collective bargaining agent, and the Crystal City Glass Workers Union in their motion for leave to intervene have brought out in paragraph 4 that the decision of the Board was unreasonable, arbitrary, and unconstitutional.

I do not think it is our jurisdiction at this hearing to go in the fact of what is the appropriate unit, since I feel that the decision has already been rendered by the Board and, hence, due to the fact that the Board in the R case clarified for the parties the decision in the C case, decided on September 22, 1938—is that right, Mr. Hoffmeister?

Mr. Hoffmeister: That is right.

[fol. 19] Mr. Lewis: In which it held that the Crystal City Glass Workers Union is not a labor organization; so on behalf of the Federation of Flat Glass Workers of America, I wish to object to the motion for leave to intervene.

Mr. Buchanan: Mr. Examiner, it appears to me that the argument of Mr. Lewis goes to the question of the relevancy or materiality of claims of the Crystal City Glass Workers Union. We haven't reached that question yet. The question now is as to whether an interested party, who would be a person aggrieved by the choice of another bargaining agent than itself, shall be recognized as such on the record of this case. That is the only question.

Is the door to be shut in the face of a union which claims a membership of 1500 out of a total number of employees of 1800 at the Crystal City plant? Now, I can assume and will assume, for the sake of this argument that in spite of the better showing made by the Crystal City Union in this motion than is made in the certification case, that the Board will say that it may be disregarded. Nevertheless, that is a matter of judgment and the question is how shall the judgment of the Board be reviewed by the court? It seems to me, clearly, that in order that the Board may have a record on which it can say, "We heard the parties and decided this case according to our idea of the law on the facts offered in evidence," it must permit the intervention.

[fol. 20] Mr. Lewis: Mr. Buchanan, I will ask you one question. Isn't it a fact that in the R case, that the Crystal City Union was allowed to offer some testimony? Now, I would just like to get your idea on how you figure out the Crystal City Glass Workers Union in the eyes of the respondent is an interested party to this case.

Trial Examiner Powell: I think, perhaps, we had better have this off the record, preliminary, and then if we want to have further statements on the record, I would rather have you make them to me. Off the record.

(Off the record discussion.)

Mr. Buchanan: The answer to Mr. Lewis' question is that while a few questions were put, without objection, by the parties to witnesses offered by Judge Hoffmeister on behalf of the Crystal City Glass Workers Union, when he proceeded with further questions going to the merits of the appropriate bargaining unit issue and the appropriate bargaining agency issue, those questions under objection were not allowed and an offer of proof made by him was rejected by the Trial Examiner, so I think it quite clear that on the merits, the Crystal City Glass Workers Union was not given a hearing in the representation case because of the order of the Board made by stipulation in a case in which the Crystal City Glass Workers Union was not a party. I think, therefore, that if the Crystal City Glass Workers Union is to have a hearing on the merits, it has to have it now.

[fol. 21] Mr. Lewis: Off the record?

Trial Examiner Powell: Off the record.

(Discussion off the record.)

Trial Examiner Powell: I will defer ruling on the motion for intervention at this time.

Mr. Buchanan: Your Honor will note that there is a motion on behalf of the respondent, Pittsburgh Plate Glass Company, that intervention be granted?

Trial Examiner Powell: I will also defer ruling on that.

Mr. Lewis: You will note objection of the Federation of Flat Glass Workers of America.

Mr. Buchanan: To the motion?

Mr. Lewis: Yes.

Mr. Kleeb: May the record show the Board's attorney objects to the motion of the respondent, as well as objecting to the intervener's request?

Counsel for the Board now wishes to offer in evidence as Board's Exhibit No. 2 a certified copy of the decision and certification of representation in Case No. R-1058, in the matter of the Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with the CIO, decided January 13, 1939.

Mr. Buchanan: No objection to competency. The objection to materiality—and really going to the propriety of [fol. 22] the order of the Board—is reserved.

Trial Examiner Powell: It may be admitted in evidence as Board's Exhibit No. 2.

(Thereupon, the document above referred to was received in evidence as Board's Exhibit No. 2.)

Mr. Kleeb: Counsel for the Board wishes to offer in evidence as Board's Exhibit 3-A and 3-B the record and the exhibits, respectively, of Case No. R-1058, the record being offered is the original record certified by the reporter, and of course, the exhibits are the original exhibits.

Trial Examiner Powell: Mr. Kleeb, I would like to call your attention to section 9(d) of the Act and see whether you think it is necessary to make this offer.

Mr. Kleeb: If the Trial Examiner please, I was aware of the provision that the record and pleadings and exhibits in a representation case would be made part of a C case, based in whole or in part upon that record. However, my feeling in the matter is that it would be more orderly procedure to make an offer of the original record and the exhibits as an exhibit.

Mr. Buchanan: Mr. Examiner, I join in that, because I think that it will shorten testimony in this case a great deal if we can, following the introduction in evidence of this record, stipulate that the rulings which were objected to in [fol. 23] the certification case, shall be deemed to be made again subject to the same objections in this case. I want to qualify that in only one way. There were more than one hundred errors, probably some not found, but there were more than one hundred errors in the transcript of the record, and all counsel in the case filed a stipulation for the correction of the record. I understand Mr. Kleeb intends to offer that stipulation as a part of the offer of the record.

Mr. Kleeb: Mr. Buchanan, I thank you for the suggestion. I think it would be also appropriate at this time for counsel of the Board to offer as Board's Exhibit 3-C a photostatic copy of the stipulation to correct the record in Case R-1058, and as Mr. Buchanan has said, this stipulation has been signed by all counsel.

Therefore, I renew the offer. It is the record as Board's Exhibit No. 3-A; the exhibits as Board's Exhibits No. 3-B,

and a photostatic copy of the stipulation correcting the record as Board's Exhibit 3-C. I renew the offer.

Mr. Buchanan: Mr. Examiner, for the purpose of correcting the record, I object to the offer only to this extent. I ask that the record be not received until all of the errors covered by the stipulation are corrected physically in the transcript of the record, in order that when the record is printed for the consideration of the Circuit Court of Appeals, the record may read in accordance with the actual facts.

[fol. 24] I believe that the reporter, in view of the large number of errors, would be glad to make those corrections without cost to the Board or the parties.

Mr. Kleeb: I have no objection to having that done, if it can be done orderly. My thought in the matter was this, in some instances the apparent errors may not have been actual errors in the record; that is, we may all have thought we said what we thought we said, and in fact said what appears in the record, in some instances; where in other instances we were improperly quoted. Therefore, whether physically correcting the record might be changing something that was actually said might not be an orderly thing to do.

However, except for that, I agree with Mr. Buchanan that it probably would be better to have the Appellate Court if the Appellate Court ever reviews this case, to read a correct record rather than a record and a stipulation correcting it, but I don't know the orderly manner of handling that.

Mr. Buchanan: Mr. Examiner, as far as the record goes, since all counsel agreed to these corrections and since they could submit a case stated if they wish, for the consideration of the Board and the courts, I think it is essential that the record be physically corrected.

I would like to hear Mr. Lewis on that subject.

Mr. Kleeb: Except for that one matter, I agree with you.

[fol. 25] Mr. Lewis: I have no objection.

Trial Examiner Powell: I suggest we follow the procedure suggested by Mr. Buchanan with the introduction, however, in the record of Board's Exhibit No. 3-C also, which will then show to whoever reviews the record what changes were made from the original transcript, which again will contain your warning as to the possibility of differences between what the people thought they said and now say they said, and actually said at the time.

Mr. Buchanan: I am content with that, Mr. Examiner. I simply want something that will be a correct continuous narrative of the happenings of the trial.

Trial Examiner Powell: With that qualification these documents offered in evidence may be admitted in evidence and made part of the record as of the time of their correction.

(Thereupon, the documents above referred to, marked as Board's Exhibits 3-A, 3-B, and 3-C, for identification, were received in evidence as Board's Exhibits Nos. 3-A, 3-B, and 3-C.)

Mr. Kleeb: May I go off the record, for a moment, please?

Trial Examiner Powell: Off the record.

(Discussion off the record.)

Trial Examiner Powell: On the record.

Mr. Kleeb: If the Trial Examiner please, with reference to the merits of commerce, counsel for the Board wishes to state that he is satisfied to rest upon the facts which were [fol. 26] adduced at the representation hearing and are disclosed in the record, exhibits, stipulation correcting the record, without adducing any additional facts at this time.

However, counsel for the Board wishes to stipulate with counsel for the respondent:

That the Board is not precluded from proving or introducing evidence or additional facts on the commerce question.

Do you agree with that?

Mr. Buchanan: I agree with that up to the time of the close of this hearing.

Mr. Kleeb: Yes, well——

Trial Examiner Powell: Off the record.

(Discussion off the record.)

Mr. Kleeb: Mr. Fuller, will you be sworn?

PAUL W. FULLER called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Kleeb:

Q. You are Paul Fuller?

A. That is right, Paul W. Fuller.

Q. Sir?

A. Paul W. Fuller.

Q. And your occupation?

A. President of the Federation of Flat Glass Workers of [fol. 27] America.

Q. Mr. Fuller, you recollect the representation case involving the Pittsburgh Plate Glass Company and your organization?

A. I do.

Q. At that time, you were affiliated with what organization?

A. The Committee for Industrial Organization.

Q. The Board's complaint and the respondent's answer establishes the fact that you are now affiliated with the Congress of Industrial Organizations. Will you explain that change, please?

A. That is correct. In the interval from the time the hearing was held we were known as the Committee for Industrial Organization. That Committee was a Committee made up of the heads of the various national and international unions. Last November, however, we called a national convention and formulated a definite organization with constitution and by-laws, and which is now known as the Congress of Industrial Organizations.

Q. And does the Committee for Industrial Organization exist at the present time?

A. No.

Q. I hand you a document. Will you please state if you can identify it?

[fol. 28] A. That is the constitution of the Congress of Industrial Organizations, which we are now affiliated with.

Mr. Kleeb: I wish to offer in evidence as Board's Exhibit No. 4, the constitution of the Congress of Industrial Organizations.

Mr. Buchanan: No objection.

Trial Examiner Powell: It may be admitted in evidence as Board's exhibit No. 4.

(Thereupon, the document above referred to, marked as Board's Exhibit No. 4 for identification, was received in evidence as Board's Exhibit No. 4.)

By Mr. Kleeb:

Q. You recollect, do you not, Mr. Fuller, that the Board's decision and certification of representation, certifying your organization as bargaining representative, was decided January 13, 1939?

A. That is right, I do.

Q. Following that certification, did you have occasion to discuss the subject of collective bargaining with the Pittsburgh Plate Glass Company at any time?

A. Yes, relative to that decision of certification—I just don't recall the date, but I think about the 18th of January we had an informal conference discussing the certification of the Board relative to Crystal City.

Q. Where was that informal conference?

A. That was held in Cleveland, at the Statler Hotel.

[fol. 29] Q. Who was present at the conference?

A. Mr. Clause, executive vice-president of the company; Mr. Keightley, public relations, personnel—whatever his title is; Mr. ——

Q. Hazard?

A. Mr. Hazard, attorney; and Mr. Joseph Froseck, a member of our organization from Ford City; and Mr. Otto Hanovaky.

Q. Will you state briefly, for the record, what was discussed at that conference?

A. We all met in Cleveland for the purpose of an annual wage conference we hold each year, and Mr. Clause called me on the telephone, asking me to meet with them informally to discuss the Crystal City plant being certified, which we did, and in the discussion Mr. Clause stated that they were willing to meet with us so far as the other plants of the company were concerned, but would not meet with us if we insisted on including Crystal City.

I objected, insisted that we include Crystal City because the Board had certified Crystal City as the unit with the rest in collective bargaining.

Q. As the result of that position taken by the company, did you have the occasion to correspond with the company?

A. Yes.

Q. I hand you some typewritten documents or papers, and ask you if you can identify them.

[fol. 30] A. Yes, I identify this as a letter to Mr. Clause from myself.

Q. What else?

A. His reply, letters including a Labor Relations Board statement from Mr. Clause; and then, an additional letter to Mr. Clause from me relative to our conference, informal conference, rather; and his reply; a letter pertaining to the matter of Crystal City—you don't want me to read them, do you?

Q. No. Does this represent all the correspondence between your union and the company relative to the certification of your union by the Board as bargaining representative?

A. That is correct.

Q. Is that right.

A. That is correct.

Trial Examiner Powell: Off the record.

(Discussion off the record.)

Mr. Kleeb: I wish to offer in evidence——

Mr. Buchanan: You had better mark for identification, hadn't you?

Mr. Kleeb: Will you mark this for identification?

(Thereupon, the documents above referred to were marked as Board's Exhibits 5-A to 5-F for identification.)

Mr. Kleeb: I wish at this time to offer in evidence Board's Exhibits 5A, B, C, D, E, and F, marked for identification [fol. 31] and identified as correspondence between the union and the respondent.

Mr. Buchanan: No objection.

Trial Examiner Powell: Are those all originals? Are there some copies?

Mr. Kleeb: The letters from the union to the company are copies. The letters from the company to the union are originals.

Mr. Buchanan, have you any objection to the union's copies?

Mr. Buchanan: No objection to the copies on the score of competency. No objection at all to the exhibit.

Trial Examiner Powell: The documents previously marked for identification as Board's Exhibits 5-A through

F may be admitted as Board's Exhibits 5-A through F, respectively.

(Thereupon, the documents above referred to as Board's Exhibits 5-A through F for identification, were received in evidence as Board's Exhibits Nos. 5-A through F.)

Mr. Kleeb: Any cross examination?
Mr. Buchanan: No cross examination.
Mr. Kleeb: Any questions, Mr. Examiner?
Trial Examiner Powell: No.
Mr. Kleeb: That is all, Mr. Fuller.

(Witness excused.)

Mr. Kleeb: Counsel for the Board moves to conform the [fol. 32] pleadings to the proof.
Mr. Buchanan: No objection.
Mr. Hoffmeister: No objection.
Mr. Lewis: No objection.
Trial Examiner Powell: Motion is granted.
Mr. Kleeb: The Board rests.
Mr. Buchanan: Before opening, Mr. Examiner, I think we should have the stipulation with regard to saving the objections and exceptions to ruling in the certification case for purpose of the complaint proceeding.
Trial Examiner Powell: Yes. Do you want to enter a stipulation?
Mr. Buchanan: That is my idea, a stipulation should be entered into.
Trial Examiner Powell: Off the record.

(Discussion off the record.)

Trial Examiner Powell: On the record.
Mr. Buchanan: I think we have to have a ruling on the motion for intervention before we can proceed.
Mr. Lewis: Mr. Trial Examiner, I think this would be a good time to adjourn until 2:00 o'clock, if convenient with Mr. Buchanan.
Mr. Buchanan: I am content.
Trial Examiner Powell: We will adjourn until 2:00 o'clock.

(Whereupon, at 12:15 P.M., a recess was taken until 2: o'clock P.M. of the same day.)

[fol. 33] Afternoon Session

(Thereupon, at 2:00 o'clock P.M., the hearing was resumed, pursuant to recess.)

Trial Examiner Powell: The hearing will resume.

In view of the provisions of section 9(d) and section 10 (c, e, and f) of the Act, it is my opinion that the union does not need to intervene in these proceedings in order to appeal from the decision of the Board in Case R-1058, decided by the Board on January 13, 1939, and reported in 10–NLRB–102.

However, so that there may be no question about the matter, I shall grant the petition for leave to intervene so that the Crystal City Glass Workers Union has for the purpose of any appeal the status of a party to the proceedings.

I shall not, however, permit the intervener to adduce evidence on matters decided by the decision of the Board in the previous C case reported in 8–NLRB–149, or in the previous R case reported in 10–NLRB–102.

Counsel for respondent may now proceed.

Mr. Buchanan: Mr. Examiner, I yield to counsel for the Crystal City Glass Workers Union in view of your Honor's ruling.

Mr. Hoffmeister: If your Honor please, I want to except on behalf of the Crystal City Glass Workers Union with reference to the latter part of the Trial Examiner's ruling with reference to admission of testimony in this cause.

[fol. 34] Trial Examiner Powell: Exception granted.

Mr. Hoffmeister: I think I had better call a witness and offer that proof and make it in the record.

Trial Examiner Powell: You may if you like.

Mr. Hoffmeister: Mr. Laiben.

Mr. Lewis: If the Trial Examiner please——

Trial Examiner Powell: I shall not allow any line of testimony in that connection, however. If you want to ask one question to establish it on the record, you may.

Mr. Lewis: In behalf of the Federation of Flat Glass Workers, I wish to except to your ruling making the Crystal City Glass Workers Union a party to the proceedings.

Trial Examiner Powell: Exception granted.

Mr. Buchanan: On behalf of the Pittsburgh Plate Glass Company, I would like your Honor to note an exception

to that part of your Honor's ruling with regard to the limits to be put on the testimony to be offered by the Crystal City Glass Workers Union.

Trial Examiner Powell: May I say that exceptions will be automatically granted?

Mr. Hoffmeister: Thank you.

Mr. Buchanan: Thank you. They were in the certification case, I understand.

Trial Examiner Powell: Off the record.

(Discussion off the record.)

[fol. 35] Mr. Buchanan: It is stipulated by and between counsel for the Board, the Pittsburgh Plate Glass Company, the Federation of Flat Glass Workers of America, and the Crystal City Glass Workers Union, being all the parties to this proceeding, that all motions, objections, and exceptions made and taken in the course of the hearing of the certification case, No. R-1058, in which the record, decision, and certification have been received in evidence in this case, shall be regarded as renewed for the purposes of the proceeding now being heard, and that all rulings on such motions, objections, and exceptions by the Trial Examiner and the Board shall be regarded as made for the purposes of this proceeding also, subject only to the further order of the Board with regard to any such motion, objection, or exception.

Mr. Kleeb, do you so stipulate?

Mr. Kleeb: Counsel for the Board joins in the stipulation with the understanding, however, that he does not waive his general objection to the intervention of the Crystal City Glass Workers Union.

Mr. Lewis: Counsel for the Federation of Flat Glass Workers joins in the stipulation with the same understanding.

Mr. Hoffmeister: The Crystal City Glass Workers Un. n joins in the stipulation as read.

Trial Examiner Powell: You may proceed.

[fol. 36] ALFONSE L. LAIBEN called as a witness by and on behalf of the Intervener, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Hoffmeister:

Q. Will you please state your name?
A. Alfonse L. Laiben.
Q. How do you spell your first name?
A. A-l-f-o-n-s-e.
Q. And your last name?
A. L-a-i-b-e-n.
Q. Where do you live, Mr. Laiben?
A. I live in Festus, Missouri.
Q. Where is Festus with reference to Crystal City?
A. Festus is the adjoining city.
Q. How long have you lived there?
A. I have lived there all my life.
Q. Are you an employee of the Pittsburgh Plate Glass Company?
A. I am.
Q. At what plant are you employed?
A. Works No. 9.
Q. Where is that located?
A. In Crystal City, Missouri.
Q. How long have you been employed at that plant?
A. For sixteen years.
Q. Are you a member of the Crystal City Glass Workers Union?

[fol. 37] Mr. Lewis: I object to this, your Honor. It is irrelevant and immaterial.

Trial Examiner Powell: You may answer.

A. I am a member.

By Mr. Hoffmeister:

Q. You are?
A. I am the president of that union.
Q. How long have you been the president?
A. Since April 4, 1938.

Mr. Kleeb: If the Trial Examiner please, because of the conditions placed upon the intervention by the Trial Ex-

aminer, and because of counsel for the Board having placed a general objection to intervention, may I request an offer from Mr. Hoffmeister as to what he intends to prove by this witness, to determine whether he is remaining within the bounds of this condition, or whether he is going outside of it?

Mr. Hoffmeister: I will read an offer of proof at this time, if Mr. Trial Examiner please.

I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union has a membership of approximately 1500 employees out of a total of approximately 1800 employees on the payroll at the present time at the Crystal City plant of the Pittsburgh Plate Glass Company.

That the members of this union being the majority of all the employees at the said plant, have designated and [fol. 38] selected it as their representative for purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

That the members of this union are opposed to being represented for the purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

That the said union is not dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

That the Pittsburgh Plate Glass Company has not contributed financial or other support to it.

That the employees at the Crystal City plant have distinct interests from employees at other plants of the Pittsburgh Plate Glass Company.

That the representatives of the Crystal City Glass Workers Union bargained collectively for the members with that company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the said union was not a party.

That since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the company in that case on July 22, 1938, and since the certification of the Federation of Flat Glass Workers of America [fol. 39] as the representative for collective bargaining for employees at all of the flat glass plants of the company on

January 13, 1939, in case No. R-1058 before the Board, the membership of the Crystal City Glass Workers Union has increased in numbers.

That is my offer of proof.

Mr. Kleeb: Because of the offer of proof as stated, counsel for the Board objects to this witness being permitted to testify to any evidence tending to prove what was offered to be proven, for the reason that the question of support or fostering of this Crystal City Glass Workers Union by the respondent is not an issue in this case; secondly, because the offer as stated goes beyond the conditions placed upon intervention by the Trial Examiner; and thirdly, because the position of the Crystal City Glass Workers Union with reference to the appropriateness of the unit which is an issue here, was presented at the representation hearing held in this region in October of 1938, and that unit question was determined by the Board in its decision in Case R-1058.

Mr. Lewis: Counsel for the Federation wishes to join with Mr. Kleeb in the objection.

Trial Examiner Powell: Are there any further remarks?

Mr. Buchanan: Mr. Examiner, it is the position of the company that the evidence offered on behalf of the Crystal City Glass Workers Union should be received.

[fol. 40] Trial Examiner Powell: Objection of the counsel for the Board is sustained.

Mr. Hoffmeister: Exception to the ruling.

Mr. Buchanan: I except to the ruling, also.

By Mr. Hoffmeister:

Q. Mr. Laiben, do you know how many members the Crystal City Glass Workers Union have at the present time?

Mr. Lewis: Object.

Mr. Kleeb: Objected to.

Trial Examiner Powell: Objection sustained. I will ask you not to ask questions that have already been ruled out.

Mr. Hoffmeister: All right.

By Mr. Hoffmeister:

Q. Has there been an increase in the membership of the Crystal City Glass Workers Union since July 22, 1938?

Mr. Lewis: Object.

Mr. Kleeb: I object to that as immaterial and irrelevant.

Trial Examiner Powell: Objection sustained.

Mr. Hoffmeister: Save my exceptions.
Mr. Buchanan: Exception.

By Mr. Hoffmeister:

Q. Now, since January 13, 1939, has there been an increase in the membership?

Mr. Kleeb: Objected to.

Trial Examiner Powell: Sustained.

[fol. 41] Mr. Hoffmeister: Note exceptions.

Mr. Buchanan: Will your Honor note exceptions of the Pittsburgh Plate Glass Company to each of your rulings since the ruling on the offer?

Trial Examiner Powell: They may be so noted.

Mr. Hoffmeister: That is all.

Just a moment, Mr. Laiben.

Mr. Buchanan: Mr. Examiner, I feel, in view of your ruling, I am compelled to call Mr. Laiben as a witness on behalf of the Pittsburgh Plate Glass Company, as I had not intended to do if the offer on behalf of the Crystal City Glass Workers Union had been received.

I should like to state that my purpose in calling Mr. Laiben is to offer—to prove by him and, following his testimony, by other witnesses, the same matters covered in the offer and the various questions put by Judge Hoffmeister.

Alfonse L. Laiben called as a witness by and on behalf of the Respondent, having been previously sworn, was examined and further testified as follows:

Direct examination.

By Mr. Buchanan:

Q. Mr. Laiben, I believe that you testified at the hearing in the certification case on October 13 and 14, 1938?

A. I did.

[fol. 42] Q. Since July 22, 1938 and, in particular, since the time of the last hearing in this case, has the Pittsburgh Plate Glass Company in any manner dominated or interfered with the administration of the Crystal City Glass Workers Union?

A. They have not.

Mr. Kleeb: Just a moment.

Mr. Lewis: Object.

Mr. Kleeb: I meant to object before he answered, and move to strike the answer.

My reason for objection is that the inquiry is not revelant or material to the issues that are before the Board in this hearing.

Trial Examiner Powell: The answer may be stricken.

I will ask you, Mr. Laiben, whenever counsel objects, not to answer the question put by your counsel before I have ruled on it.

Mr. Buchanan: Mr. Examiner, I wish to call your attention to the fact that Mr. Laiben didn't endeavor to answer before the objection was interposed. The objection was made later.

Trial Examiner Powell: I wasn't implying that.

Mr. Buchanan: On behalf of the Pittsburgh Plate Glass Company, I make the offer to prove by this witness and other witnesses, by competent testimony, the facts stated in the offer made by Judge Hoffmeister on behalf of the Crystal City Glass Workers Union. Is it the desire of counsel that I——

[fol. 43] Mr. Lewis: I object.

Mr. Buchanan: —that I restate that offer, or will it be assumed that my offer will follow Judge Hoffmeister's?

Mr. Kleeb: Counsel for the Board is not objecting to everything that you might ask this witness as your witness, Mr. Buchanan. I have objected only to questioning him on this proposition of respondent supporting or fostering the Crystal City Glass Workers Union. I have not objected to a general offer to prove.

Mr. Lewis: I would like to see that, Mr. Hoffmeister.

Trial Examiner Powell: Off the record.

(Discussion off the record.)

Trial Examiner Powell: On the record.

Mr. Buchanan: Mr. Examiner, in view of the fact that it has been suggested by counsel for the Board and for the Federation of Flat Glass Workers that the offer should be split, I now make this offer on behalf of the Pittsburgh Plate Glass Company, namely:

To prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union has a membership of approximately 1500 employees out of a present total of approximately 1800 em-

ployees on the payroll at the Crystal City plant of the Pittsburgh Plate Glass Company.

Mr. Lewis: I object to that offer on behalf of the Fed-
[fol. 44] eration of Flat Glass Workers.

Mr. Kleeb: I have no objection.

Mr. Lewis: Mr. Trial Examiner, maybe I had better explain my stand on that question. As I understand, by offering to prove a certain membership is shown by the Crystal City Glass Workers Union at Crystal City, the Board has ruled in parts of their decision the wishes of these men were not the overwhelming thing to consider, and also for this reason, that the union filed this complaint against the respondent, charging them with refusal to bargain and unfair labor practices.

We are not here today to refute any of this testimony as to the membership and I believe, indirectly, it is opening up the R case and making an R case out of the C case. In other words, we contend that the Board has already decided about the membership due to the fact that it was stipulated in the R case that, taking all the plants together, that the Federation of Flat Glass Workers had a majority of the men employed by the Pittsburgh Plate Glass Company, but it was also stipulated that they did not have a majority at that time in the Crystal City plant.

Mr. Kleeb: May I make a statement for the record so that my position doesn't seem inconsistent?

Trial Examiner Powell: Yes.

Mr. Kleeb: I am not objecting because the member-
ship in this organization as such may be material or im-
material. The Board has said that it is not a labor organi-
[fol. 45] zation within the meaning of the Act. Therefore, its wishes in this question are immaterial, but I feel, however, that whether it is a social club, or what it might be, the membership therein makes no difference, and whether it is material or immaterial, I see no objection to that being answered. Therefore, I raise no objection.

Trial Examiner Powell: What is the connection between this question and the allegations in the complaint; what is the purpose of your question?

Mr. Buchanan: The purpose, if the Examiner please, is to show the facts with regard to the question as to what organization of employees at the present time, under existing circumstances is entitled to be recognized as the representative for collective bargaining at the Crystal City plant.

I wish to state frankly that the evidence that I am offering would not be material unless the Board, on reconsideration of its previous ruling, or on a determination that circumstances have so changed as to require a different ruling, should determine that the Crystal City plant was an appropriate unit for collective bargaining.

Now, while I take it that a determination of that question once upon a time doesn't determine it for all time, I shall endeavor to obtain the judgment of the Board if the evidence is admitted as to whether it ought to change its [fol. 46] decision that the employees at all the flat glass plants of the company within the categories within question are to be taken as a unit for collective bargaining.

Mr. Kleeb: Mr. Trial Examiner, with that explanation of counsel for the respondent as to the purpose, I will join counsel for the Federation of Flat Glass Workers and object to the relevancy and materiality of this testimony.

Mr. Lewis: Mr. Examiner, I wish to renew my objection.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the members of the Crystal City Glass Workers Union, some 1500 in number, being a majority of all the employees at the Crystal City plant, have designated and selected that union as their representative for collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

Mr. Kleeb: Object.

Mr. Lewis: Mr. Examiner, I would like to object for the Federation, as immaterial.

Mr. Kleeb: I object as immaterial.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: I take it exceptions are noted in each case to the sustaining of objections?

Trial Examiner Powell: That is right.

[fol. 47] Mr. Buchanan: I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the members of the Crystal City Glass Workers Union are opposed to being represented for purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

Mr. Lewis: On behalf of the 5700 members of the Federation of Flat Glass Workers, employees of the Pittsburgh Plate Glass Company, I object to that.

Mr. Kleeb: I object, immaterial.

Mr. Buchanan: If the Examiner please, on the form of the objection, I call your attention to the fact that the record is bare as to the membership of the Federation of Flat Glass Workers, and I trust that your Honor on ruling will give no weight to the assertion there are 5700 members of the Federation among the employees of the Pittsburgh Plate Glass Company.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union is not dominated, nor was its formation interfered with, nor has its administration been interfered with, by the Pittsburgh Plate Glass Company.

Mr. Kleeb: Objected to as immaterial and irrelevant.

Mr. Lewis: Objected to.

[fol. 48] Trial Examiner Powell: Objection sustained.

Mr. Buchanan: I offer to prove that since the hearing in the certification case on October 13 and 14, 1938, the Crystal City Glass Workers Union has not been dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

Mr. Lewis: I object to that as immaterial.

Mr. Kleeb: Read that offer, please.

(Reporter read the previous offer of proof.)

Mr. Kleeb: Objected to as immaterial and irrelevant.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: Mr. Examiner, I make the same offer as that last made, substituting the date "July 22, 1938", the date of the stipulation in the complaint case in the Fourteenth Region.

Mr. Lewis: Objected to as immaterial.

Mr. Kleeb: And I object for the reason aforesaid.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: Mr. Examiner, I make the same offer, substituting the date "September 22, 1938", being the date of the order of the Board in the complaint case on the stipulation, requiring the Pittsburgh Plate Glass Company, among other things, to cease and desist from:

"In any manner dominating or interfering with the administration of the Crystal City Glass Workers Union, or any other organization of its employees, or contributing aid

[fol. 49] or support to said organization, or any other labor organization of its employees; from recognizing or dealing with Crystal City Glass Workers Union as a labor organization, or any person or group of persons purporting to represent said organization."

Mr. Kleeb: Objected to, same reason.

Mr. Lewis: Same objection.

Trial Examiner Powell: Objection sustained. Off the record.

(Discussion off the record.)

Trial Examiner Powell: On the record.

Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the Crystal City Glass Workers Union bargained collectively for its members with the Pittsburgh Plate Glass Company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the Crystal City Glass Workers Union was not a party.

Mr. Lewis: I object to that as immaterial, irrelevant.

Mr. Kleeb: I join the objection.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: I offer to prove by the witness on the [fol. 50] stand, and other witnesses, and records, by competent testimony, that since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the Pittsburgh Plate Glass Company in the case C-778 in the Fourteenth Region on July 22, 1938, the membership of the Crystal City Glass Workers Union has increased by 448.

Mr. Lewis: I object to that as immaterial.

Mr. Kleeb: I join that objection.

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, and records, by competent testimony, that of the 448 members who have joined the Crystal City Glass Workers Union since July 22, 1938, 263 have become members of that union since January 13, 1939, the date of the certification of the Federation of Flat Glass Workers of America as the representative for collective bargaining of employees of certain classes as all the flat glass plants of the Pittsburgh Plate Glass Company.

Mr. Lewis: Objection to that as immaterial.

Mr. Kleeb: I join in the objection.

Mr. Buchanan: If I might be heard on this, I may say that this particular item at least is something that the Board could not possibly have had before it at the time when it rendered its decision.

I wish to say further that the Board appeared in part to [fol. 51] rely in its decision on an expectation that the CIO union at Crystal City would increase in membership as a result of the Board's action. I think it pertinent to show that exactly the opposite to what the Board expected at the time of its certification has taken place, and the Board should know that before it determines that it is an unfair labor practice to refuse to recognize the Federation of Flat Glass Workers as the representative for collective bargaining of Crystal City employees.

Mr. Lewis: I wish to renew my objection.

Mr. Kleeb: I am renewing mine, and I wish to call the Trial Examiner's attention, before his ruling, that the Board said:

"Thus, to give the effect to the wishes of 1300 Crystal City employees for a separate bargaining unit as expressed in their petition, would inevitably hamper and obstruct the far larger number of the company's employees at the other plants in their efforts to organize and to bargain collectively with the company."

Trial Examiner Powell: Objection sustained.

Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, and by competent testimony, that not only since the stipulation previously referred to of July 22, 1938, but since the decision of the Board in the certification case on January 13, 1939, the [fol. 52] Crystal City Glass Workers Union has continued to be an active organization for the purposes for which it was chartered and shown by its by-laws in evidence, though its activity in the matter of collective bargaining has been restricted by the stipulation made in the case to which it was not a party.

Mr. Lewis: Object to that as immaterial.

Mr. Kleeb: I object to that as immaterial and irrelevant.

Mr. Buchanan: Mr. Examiner, I offer in evidence for the purpose of showing that the Crystal City Glass Workers

Union was not a party thereto, the decision and order of the Board in the matter of the Pittsburgh Plate Glass Company, Works No. 9, and Federation of Flat Glass Workers of America, affiliated with the CIO, being Case No. C-778, decided September 22, 1939, identified as respondent's Exhibit No. 1.

Mr. Kleeb: No objection.

Mr. Lewis: No objection.

Trial Examiner Powell: It may be admitted in evidence as Respondent's Exhibit No. 1.

(Thereupon, the document above referred to as Respondent's Exhibit No. 1 for identification, was received in evidence as Respondent's Exhibit No. 1.)

Mr. Buchanan: Mr. Examiner, the respondent rests unless further testimony is offered in behalf of other parties.

Mr. Lewis: Mr. Examiner, the Federation has no further [fol. 53] testimony.

Trial Examiner Powell: Do you have any further testimony?

Mr. Hoffmeister: No further testimony for the Crystal City Glass Workers Union.

Trial Examiner Powell: Does the Board have any further testimony?

Mr. Kleeb: The Board has no further testimony.

Trial Examiner Powell: Do any of the counsel care to file a brief with the Examiner before he renders his intermediate report? There is a further opportunity to file a brief with the Board itself.

Mr. Buchanan: Yes. I presume, Mr. Examiner, since we shall doubtless need to file briefs after the intermediate report has been served upon us, that perhaps it is unnecessary to file briefs now.

Mr. Hoffmeister: The Crystal City Glass Workers Union does not intend to file a brief now.

Trial Examiner Powell: Do you care to make any argument off the record before the Examiner at this time?

Mr. Buchanan: I haven't heard whether the other gentlemen wish to file briefs or not.

Mr. Kleeb: The counsel for the Board will not file any briefs at any time, and desires no oral argument.

Mr. Lewis: The counsel for the Federation does not in-

[fol. 54] tend to file briefs before the intermediate report as long as the respondent or the Crystal City Glass Workers Union does not intend to file briefs.

Mr. Buchanan: Before making an oral argument, if your Honor please, I should like to know whether an oral argument is to be made on behalf of the Board or the Federation of Flat Glass Workers.

Mr. Kleeb: As I stated previously, counsel for the Board does not intend to file a brief at any time and desires no oral argument.

Mr. Buchanan: Now?

Mr. Kleeb: Now or any time.

Mr. Lewis: We do not intend to file a brief or desire oral argument.

Mr. Hoffmeister: It seems to me, if the Trial Examiner please, that most of the argument has been made as we have gone along on really important questions that have been involved, and I think you have had an opportunity to rule on those questions, so we do not intend to make an argument.

Mr. Buchanan: Mr. Examiner, I do not wish to make an oral argument unless there is some question which the Trial Examiner wishes to direct to me on which he thinks it is desirable.

Trial Examiner Powell: I do not feel that it is necessary at this time.

[fol. 55] There being nothing further for the record, the Examiner wishes to announce that the request to file briefs with or present oral argument before the National Labor Relations Board on any exceptions to issues raised, written requests for such filing of briefs or presentation of oral argument be made to the Board at the Shoreham Building, Washington, D. C., within ten days of the date of the intermediate report.

(Witness excused.)

Trial Examiner Powell: The hearing at this time will stand formally adjourned, and the record is officially closed.

(Whereupon, at 3:00 o'clock P. M., March 6, 1939, the hearing in the above-entitled matter was closed.)

[fol. 56] BOARD EXHIBIT 1*a*

BEFORE THE NATIONAL LABOR RELATIONS BOARD, SIXTH REGION

Case No. VI-C-319

In the Matter of PITTSBURGH PLATE GLASS COMPANY and Federation of Flat Glass Workers of America, Affiliated with the C. I. O.

COMPLAINT

It having been charged by the Federation of Flat Glass Workers of America, affiliated with the Congress of Industrial Organizations, Columbus, Ohio, hereinafter referred to as the Union, that the Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, hereinafter referred to as Respondent, has engaged in and is now engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, 49 Stat. 449, hereinafter referred to as the Act, the National Labor Relations Board, hereinafter referred to as the Board, by its Regional Director for the Sixth Region, as agent of the Board, designated by the National Labor Relations Board Rules and Regulations, Series 1, as amended, Article IV, Section 1, hereby alleges the following:

1. Respondent is and has been since November 3, 1920, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal office in Pittsburgh, Commonwealth of Pennsylvania, and is the successor to a Company of the same name organized and incorporated under the laws of the Commonwealth of Pennsylvania, August 24, 1908.

[fol. 57] 2. Respondent is and has been engaged in the manufacture, sale, and distribution of chemicals, paints, varnishes, lacquers, brushes, and many types of flat glass; and as thus engaged, Respondent's operations are separated into five (5) main divisions; namely, commercial, chemical, paint, brush, and flat glass.

3. Respondent's plants in its flat glass division are located in Creighton, Pennsylvania; Ford City, Pennsylvania; Crystal City, Missouri; Henryetta, Oklahoma; Mt. Vernon, Ohio; and Clarksburg, West Virginia.

4. Respondent, in the course of its conduct of its business, causes and has continuously caused a substantial part of the raw materials used in the manufacture of its many types of flat glass to be purchased and transported in interstate and foreign commerce from and through states of the United States and from foreign countries to the various plants constituting the flat glass division, and causes and has continuously caused a substantial part of the flat glass products manufactured by it to be sold and transported in interstate and foreign commerce from the several plants in the flat glass division, to, into, and through states of the United States and to, into, and through foreign countries.

5. The Union is affiliated with the Congress of Industrial Organizations and is a labor organization as defined in Section 2, subdivision (5) of the Act.

6. On January 13, 1939, the Board in its Decision and Certification of Representatives, in case No. R-1058 in the matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with C. I. O., found that the production and maintenance employees of Respondent, excluding window glass cutters, clerical em- [fol. 58] ployees not directly connected with production and supervisory employees at Respondent's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act, and by virtue of and pursuant to the power vested in it by Section 9 (c) of the Act, and pursuant to Article III, Section 8 of the National Labor Relations Board Rules and Regulations—Series 1, as amended, certified the Union as the exclusive representative of all the production and maintenance employees of Respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees at the flat glass plants of Respondent, situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

7. On or about January 18, 1939, and January 19, 1939, the Union, by its officers, agents, and representatives, requested Respondent to bargain collectively in respect to rates of pay, wages, hours of employment, and other conditions of employment with the Union as the exclusive representative of all the employees in the unit found by the Board to be appropriate.

8. On or about January 18, 1939, and January 19, 1939, Respondent, by its officers, agents, and representatives, refused and continues to refuse to recognize and accept as appropriate the unit found by the Board on January 13, 1939, to be the appropriate unit, and on or about January 18, 1939, and January 19, 1939, refused and continues to refuse to bargain collectively with the Union as exclusive rep- [fol. 59] resentative of all the employees in the unit found by the Board to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

9. By the aforementioned acts and conduct and each of them as set forth in paragraph 8 above, and by other acts and conduct, Respondent, by its officers, agents, and representatives, refused and has continued to refuse to bargain collectively with the representatives of Respondent's employees in the appropriate unit, and by all of said acts and by each of them and by other acts did engage in and is now engaging in unfair labor practices within the meaning of Section 8, subdivision (5) of the Act.

10. By the aforementioned acts and conduct and each of them as set forth in paragraph 8 above, and by other acts and conduct, Respondent by its officers, agents, and representatives, did interfere with, restrain, and coerce and is now interfering with, restraining, and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act and by all of the said acts and by each of them and by other acts, did engage in and is now engaging in unfair labor practices within the meaning of Section 8 subdivision (1) of the Act.

11. The activities of Respondent as set forth in paragraphs 8, 9, and 10 above, occurring in connection with the operations of Respondent as described in paragraphs 1, 2, 3, and 4 above have a close, intimate and substantial rela-

tion to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

12. The aforesaid acts of Respondent set forth in paragraphs 8, 9, and 10 above, constitute unfair labor practices [fol. 60] affecting commerce within the meaning of Section 8, subdivisions (1) and (5) and Section 2, subdivisions (6) and (7) of the Act.

Wherefore, the National Labor Relations Board, on this 20th day of February, 1939, issues its Complaint against Pittsburgh Plate Glass Company, Respondent herein.

(S.) Charles T. Douds, Regional Director. (Seal.)

[fol. 61] Before the National Labor Relations Board, Sixth Region

Case No. VI-C-319

[Title omitted]

NOTICE OF HEARING

Please Take Notice, that on the sixth day of March, 1939, at ten o'clock, e. s. t., in the forenoon, in Court Room No. 6, 6th Floor, Federal Building, Pittsburgh, Pennsylvania, a hearing will be conducted before the National Labor Relations Board by a Trial Examiner to be designated by it in accordance with its Rules and Regulations, Series 1, as amended, Article IV and Article II, Section 22, on the allegations set forth in the Complaint attached hereto, at which time and place you will have the right to appear, in person or otherwise, and give testimony.

You are further notified that you have the right to file with the Regional Director for the Sixth Region, with offices at No. 1030 Federal Building, Pittsburgh, Pennsylvania, acting in this matter as agent of the National Labor Relations Board, an answer to the attached complaint within five (5) days from receipt thereof.

Enclosed herewith for your information is a copy of the Charge and also a copy of Rules and Regulations, Series 1, as amended, made and published by the National Labor Relations Board, pursuant to authority granted in the National Labor Relations Act. Your attention is particularly directed to Article II of said Rules and Regulations.

[fol. 62] In Witness Whereof, the National Labor Relations Board has caused this, its Complaint and Notice of Hearing, to be signed by the Regional Director for the Sixth Region on the twentieth day of February, 1939.

(S.) Charles T. Douds, Regional Director, Sixth Region. (Seal.)

(Here follows 1 photolithograph, side folio 63)

N. L. R. B. 29
Revised 8-16-37

United States of America

BEFORE THE NATIONAL LABOR RELATIONS BOARD

COPY

Sixth REGION

In the Matter of

PITTSBURGH PLATE GLASS COMPANY

and

FEDERATION OF FLAT GLASS WORKERS OF AMERICA, affiliated with C.I.O.

Case No. VI-C-319

Date filed January 26, 1939

CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that

Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania

has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) and (5) of said Act, in that

On January 13, 1939, the National Labor Relations Board, by virtue of and pursuant to the power vested in it by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations - Series 1, as amended, certified the Federation of Flat Glass Workers of America, affiliated with C.I.O., as the exclusive representative of all the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in ... Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment, and

On or about January 18, 1939 and January 19, 1939 the Pittsburgh Plate Glass Company, by its officers, agents and representatives, refused to recognize as appropriate the above mentioned unit found by the National Labor Relations Board on January 13, 1939 to be appropriate, and on or about January 18, 1939 and January 19, 1939 refused and continues to refuse to bargain collectively with the Federation of Flat Glass Workers of America, affiliated with C.I.O., as exclusive representative of all the aforementioned employees in the unit found by the Board to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

By the acts set forth in the paragraphs above, and by other acts and conduct, it, by its officers, agents and representatives, interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Subscribed and sworn to before me this 26th day of January, 1939 At Pittsburgh, Penna.

/s/Robert H. Kleeb
Regional Attorney

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

FEDERATION OF FLAT GLASS WORKERS OF AMERICA
Affiliated with C.I.O.
By: /s/ Henry Baum
District President of District No. 3
85 East Gay Street, Columbus, Ohio

U. S. GOVERNMENT PRINTING OFFICE 16—6421

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[fol. 64] BOARD EXHIBIT No. 1-C

Before the National Labor Relations Board, Sixth Region

Case No. VI-C-319

[Title omitted]

APPLICATION FOR EXTENSION OF TIME FOR FILING ANSWER

Pittsburgh Plate Glass Company, respondent in the above case, having received on February 21, 1939, a copy of the complaint filed therein, together with a notice of hearing on March 6, 1939, hereby applies for an extension until March 3, 1939, of the time within which an answer may be filed, for the reason that one of the persons familiar with the facts constituting the respondent's grounds of defense is, and until February 27, 1939, will be, unavailable and other such persons reside and are outside the Sixth Region.

Pittsburgh Plate Glass Company, By (S.) Smith Buchanan & Ingersoll, Its Attorneys.

Pittsburgh, Pennsylvania, February 23, 1939.

[fol. 65] BOARD EXHIBIT 1-D

Before the National Labor Relations Board, Sixth Region

Case No. VI-C-319

[Title omitted]

ORDER EXTENDING TIME FOR FILING ANSWER

It is hereby ordered that the time for the Pittsburgh Plate Glass Company to file its answer to the Complaint in the above entitled matter, issued by the Regional Director on February 20, 1939, is hereby extended until March 3, 1939.

(Signed at Pittsburgh, Pennsylvania this 23rd day of February, 1939. (s.) Charles T. Douds, Regional Director, Sixth Region. (Seal.)

[fol. 66] BOARD EXHIBIT No. 1-F

Before the National Labor Relations Board, Sixth Region

Case No. VI-C-319

[Title omitted]

ANSWER

Pittsburgh Plate Glass Company, the respondent in the above case, in answer to the complaint issued pursuant to the charge filed on January 26, 1939, by the Federation of Flat Glass Workers of America, affiliated with the Congress of Industrial Organizations, that the respondent had engaged and was then engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, avers as follows:

1. The allegations of fact contained in paragraph 1 of the complaint are admitted, except that the company of the same name as the respondent and to which it is the successor was incorporated on May 3, 1907, instead of August 24, 1908.

2. The allegations of fact contained in paragraph 2 of the complaint are admitted, except that (a) the products mentioned therein are not the only products of the respondent and (b) the main divisions into which the respondent's operations are divided are (1) glass, (2) chemicals, (3) cement, (4) paint, varnish and lacquer, and (5) brushes.

3. The allegations of fact contained in paragraph 3 of the complaint are admitted.

[fol. 67] 4. The allegations of fact contained in paragraph 4 of the complaint are admitted, but the respondent avers that the allegations (a) that it causes and has continuously caused a substantial part of the raw materials used by it in the manufacture of flat glass to be purchased and transported in interstate and foreign commerce and (b) that it causes and has continuously caused a substantial part of the flat glass products manufactured by it to be sold and transported in interstate and foreign commerce are mere conclusions of law and are therefore denied.

5. The allegations of fact contained in paragraph 5 of the complaint are admitted.

6. In answer to the allegations contained in paragraph 6 of the complaint, the respondent refers to the decision

and certification by the National Labor Relations Board in Case No. R-1058 entitled "In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, Affiliated with the C. I. O.", which decision and certification being in wr ing speak for themselves. The respondent further avers that the said decision and certification of the National Labor Relations Board are erroneous, arbitrary and invalid.

7. The allegations of fact contained in paragraph 7 of the complaint are admitted.

8. The allegations of fact contained in paragraph 8 of the complaint are admitted, but the respondent avers that the findings of the National Labor Relations Board referred to therein are erroneous, arbitrary and invalid for the reason, among others, that the unit found by the Board to be appropriate for the purposes of collective bargaining is not the appropriate unit within the meaning of Section 9 of [fol. 68] the National Labor Relations Act.

9. The respondent avers that the allegations contained in paragraph 9 of the complaint are mere conclusions of law and the respondent therefore denies the same.

10. The respondent avers that the allegations contained in paragraph 10 of the complaint are mere conclusions of law and the respondent therefore denies the same.

11. The respondent avers that the allegations contained in paragraph 11 of the complaint are mere conclusions of law and the respondent therefore denies the same.

12. The respondent avers that the allegations contained in paragraph 12 of the complaint are mere conclusions of law and the respondent therefore denies the same.

Wherefore the respondent prays that the National Labor Relations Board find that the respondent has not engaged in and is not engaging in any unfair labor practices and shall issue an order dismissing the complaint.

Pittsburgh Plate Glass Company. By (s.) R. L. Clause, Vice President, Grant Building, Pittsburgh, Pennsylvania. (s.) Smith, Buchanan & Ingersoll, 1025 Union Trust Building, Pittsburgh, Pennsylvania. (s.) Igoe, Carroll, Keefe & McAfee, Boatmen's Bank Building, St. Louis, Missouri. Attorneys for Pittsburgh Plate Glass Company.

[fol. 69] *Duly sworn to by R. L. Clause. Jurat omitted in printing.*

[fol. 70] Certificate to Exhibit 1-g, omitted in printing.

[fol. 71] BOARD EXHIBIT 1-G

Before the National Labor Relations Board

Case No. VI-C-319

[Title omitted]

ORDER DESIGNATING TRIAL EXAMINER

A charge having been filed in this matter, and it having appeared to the Regional Director of the Sixth Region that a proceeding in respect thereto should be instituted, and the Board having considered the matter and being advised in the premises,

It is hereby ordered that Webster Powell act as Trial Examiner in the above case and perform all the duties and exercise all the powers granted to trial examiners under the Rules and Regulations—Series 1, as amended, of the National Labor Relations Board.

Dated, Washington, D. C., March 3, 1937.

By direction of the Board:

George O. Pratt,
Chief Trail Examiner. (Seal.)

[fol. 72] BOARD'S EXHIBIT 2

Before the National Labor Relations Board

Case No. R-1058

In the Matter of PITTSBURGH PLATE GLASS COMPANY

and

FEDERATION OF FLAT GLASS WORKERS OF AMERICA,
Affiliated with C.I.O.

Mr. Robert H. Kleeb, for the Board.

Smith, Buchanan & Ingersoll, by Mr. John G. Buchanan and Mr. William J. Kyle, Jr., of Pittsburgh, Pa., and Mr. J. Wesley McAfee, of St. Louis, Mo., for the Company.

Mr. H. B. Holman and Mr. William Lewis, of Columbus, Ohio, for the Federation.

Mr. Fred Hoffmeister, of St. Louis, Mo., for the Crystal City Union.

Mr. Robert Kramer, of counsel to the Board.

DECISION AND CERTIFICATION OF REPRESENTATIVES

On April 4, 1938, Federation of Flat Glass Workers of America, affiliated with C.I.O., herein called the Federation, filed with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania) a petition, and on May 13, 1938, an amended petition, alleging that a question affecting commerce had arisen concerning the representation of employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, herein called the Company, at its plants located in Ford City and Creighton, Pennsylvania; Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; and Crystal City, Missouri, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 26, 1938, the National Labor Relations Board, herein called the Board, acting pursuant [fol. 73] to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations —Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice; and, acting pursuant to Article II, Section 37 (b), and Article III, Section 10 (c) (2), of said Rules and Regulations, further ordered that for the purpose of hearing the proceedings in this case be consolidated with those in Matter of Pittsburgh Plate Glass Company, Works No. 9, and Federation of Flat Glass Workers of America, affiliated with C.I.O., Case No. C-778, in which on June 17, 1938, the Board, upon charges duly filed by the Federation, issued and duly served its complaint alleging that the Company had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the Act. In respect to the unfair labor practices within the meaning of Section 8 (2) of the Act, the complaint alleged in substance that the Company had dominated and interfered with the formation and administration of Crystal City Glass Workers' Union, herein called the Crystal City Union, a labor organization of the Company's

employees at its Crystal City, Missouri, plant. On July 21, 1938, the Board, in accordance with Article II, Section 37 (b), and Article III, Section 10 (c) (2), of said Rules and Regulations, issued an order covering the two cases which had been consolidated for the purpose of hearing. In Case No. C-778, a hearing was held in Crystal City, Missouri, on July 18, 20, and 22, 1938, before Joseph L. Maguire, the Trial Examiner duly designated by the Board. On July 22, 1938, counsel for the Board, the Company, and the Federation entered into a stipulation, on the basis of which the Board, on September 22, 1938, issued a Decision and Order[1] requiring the Company to cease and desist "from [fol. 74] recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization, or any person or group of persons purporting to represent said organization."

On September 27, 1938, the Regional Director issued a notice of hearing in the instant representation proceedings, copies of which were duly served upon the Company, the Federation, and Window Glass Cutters' League of America, herein called the League, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on October 13 and 14, 1938, at Pittsburgh, Pennsylvania, before Tilford E. Dudley, the Trial Examiner duly designated by the Board. At the opening of the hearing the Crystal City Union, claiming to represent employees directly affected by the investigation, requested leave to intervene in the proceedings. The Trial Examiner denied this motion, on the ground that the Crystal City Union, having been named in the Federation's petition and amended petition as a labor organization claiming to represent employees directly affected by the investigation, was already a party to the proceedings. The Crystal City Union then waived any absence of formal notice to it of the hearing. The Board, the Company, the Federation, and the Crystal City Union were represented by counsel and participated in the hearing. The League did not appear at the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on all the issues was afforded all parties, except that the Trial Examiner, because of the Board's Decision and Order, dated September 22, 1938, in Case No. C-778,[2] refused to

[1] 8 N.L.R.B., No. 149

[2] 8 N. L. R. B., No. 149.

allow the Crystal City Union to introduce evidence as to its membership or representation of employees. During the hearing the Company moved that the Board conduct an elec- [fol. 75] tion among its employees at Crystal City to determine their desires concerning representation. The Crystal City Union moved that its name be placed upon any ballot used in any election conducted by the Board among the Company's employees. The Trial Examiner stated that he could not rule upon these motions and reserved them for decision by the Board. For reasons hereinafter set forth these motions are hereby denied. During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has revised the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

After the hearing, the Company, the Federation, and the Crystal City Union filed briefs, which the Board has considered. On December 20, 1938, pursuant to notice duly served upon all the parties, oral argument, in which representatives for the Company and the Federation participated, was had before the Board in Washington, D. C.

Upon the entire record in the case, the Board makes the following:

Findings of Fact

I. The Business of the Company

The Company is a Pennsylvania corporation with its principal place of business in Pittsburgh, Pennsylvania. It is engaged in the manufacture, sale, and distribution of chemicals, paints, varnishes, lacquers, brushes, and many types of flat glass. The Company has separated its operations into five main divisions; namely: commercial, chemical, paint, brush, and flat glass. The present proceeding involves the flat glass division only.

The following table shows the location of each plant in the flat glass division, the type of glass it produces, the volume [fol. 76] of its production in 1937, the percentage of this production shipped in 1937 to points outside the State in which the plant is located, the percentage of the raw materials used at each plant shipped to it in 1937 from points outside the State in which it is situated and the normal number of employees at each plant.

[fol. 77]

Plant	Location	Products	Volume of Production in 1937	Percentage of Products shipped outside State of Location in 1937	Percentage of Raw Materials Shipped into State of Location in 1937	Normal Number of Employees as Shown by Pay Roll of September 30, 1938
Works No. 1	Creighton, Pa.	Plate and Safety Glass	35,072,350.33 sq. ft. of plate glass 17,416,303.36 sq. ft. of safety glass	99 (plate glass) 95 (safety glass)	8	1289 (plate workers)[3] 947 (safety workers)[4] 2236 (total)
Works No. 4	Ford City, Pa.	Plate Glass	22,203,732.94 sq. ft.	95	14	1408
Works No. 6	Ford City, Pa.	Carrara Structural Glass	150,219.16 sq. ft.	95	45	268
Works No. 9	Crystal City, Mo.	Plate and Safety Glass	34,511,734.17 sq. ft. of plate glass 13,240,234 sq. ft. of safety glass	99 (plate glass) 100 (safety glass)	20	1607
Works No. 10	Henryetta, Okla.	Window Glass	494,530 boxes	83	50	273 [3]
Works No. 11	Mt. Vernon, Ohio	Window Glass	893,389 boxes	92	28	350 [3]
Works No. 12	Clarksburg, W. Va.	Window Glass	975,806 boxes	99	39	353
						Normal total number of Employees: 6495

[3] This figure is taken from the pay roll of December 8, 1937, the last one prior to the hearing which reflected normal employment at this plant.

[4] This figure is taken from the payroll of February 1, 1938, the last one prior to the hearing which reflected normal employment at this plant.

[fol. 78] In addition to the above plants, the flat glass division includes a factory at Elwood, Indiana, employing a maximum of 40 men and manufacturing refractories which are used in building tanks and furnaces at the glass plants, and a factory at Kokomo, Indiana, employing about 25 men and manufacturing metal strips for store fronts.

II. The Organizations Involved

Federation of Flat Glass Workers of America is a labor organization affiliated with the Committee for Industrial Organization and admitting to its membership all production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at all the plants in the flat glass division of the Company..

Window Glass Cutters League of America is a labor organization affiliated with the American Federation of Labor, admitting to its membership the window glass cutters at all the plants in the flat glass division of the Company.

Crystal City Glass Workers' Union, prior to the Board's Decision and Order of September 22, 1938, in Case No. C-778,[5] disestablishing it as a labor organization, was an unaffiliated labor organization admitting to its membership only employees at the Crystal City Plant of the Company.

III. The Question Concerning Representation

Both before and at the hearing the Company expressed its willingness to bargain collectively at each of its plants in its flat glass division with any labor organization which represented a major of the employees at that plant, and the Company accordingly has bargained collectively with the Federation and has a written agreement with it for all the plants in the flat glass division except those at Crystal City, Missouri, and Kokomo and Elwood, Indiana. The Federation has requested the Company to bargain collectively with *at* [fol. 79] the Crystal City plant and to include that plant in the written agreement between the Company and it covering the other plants, but the Company has refused to do so on the ground that the Federation does not represent a majority of the employees at the Crystal City plant.

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[5] 8 N. L. R. B., No. 149.

We find that a question has arisen concerning representation of employees of the Company.

IV. The Effect of the Question Concerning Representation upon Commerce

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Appropriate Unit

The Federation admits to its membership all production and maintenance employees in the flat glass division of the Company, excluding clerical employees not directly connected with production, supervisory employees, and window glass cutters. The flat glass division of the Company, in the words of the vice president in charge of it, operates "Quite separately" from the four other main divisions of the Company; namely, the commercial, paint, brush, and chemical. It produces flat glass, an entirely different product from those produced by the other divisions of the Company, and has its own labor policies. At the hearing neither the Company nor the Crystal City Union objected to the Federation's request to exclude the employees in the four other divisions of the Company from the appropriate unit, or to the classification of employees proposed by the Federation. The Federation's constitution makes window glass cutters ineligible for membership in it, and the Company has an agreement with the League by which all its window glass cutters must be members of the League. We see no reason [fol. 80] for departing from the Federation's classification of employees, or for not granting its request to include employees in the Company's other four divisions from the appropriate unit.

The Federation asserts that all the employees eligible for membership in it at all the plants in the flat glass division except those at Kokomo and Elwood, Indiana, constitute a single unit appropriate for the purposes of collective bargaining. Neither the Company nor the Crystal City Union objected at the hearing to the exclusion of the Kokomo and

Elwood plants from the appropriate unit. The work done at Kokomo—the manufacture of store front metal strips—and the work done at Elwood—the manufacture of refractories used in constructing tanks and furnaces at the glass factories—is not similar in any respect to that done in the other plants in the flat glass division. There is no evidence that the Federation has ever attempted to organize the 65 employees at these two plants or has any members among them. In view of the unopposed desire of the Federation to exclude these two plants, the lack of any organizational activitiy at these plants by the Federation, and the different nature of the work done there from that done in the other flat glass plants, we will not include the Kokomo and Elwood plants in the appropriate bargaining unit.[6]

The Company and the Crystal City Union, however, assert that either the employees at each plant in the flat glass division constitute separate units appropriate for the purposes of collective bargaining or the employees at all these plants except Crystal City constitute one appropriate unit and the employees at Crystal City—the only plant at which the Federation admittedly has not as members a majority of the employees—constitute another. Inasmuch as the [fol. 81] Crystal City Union admits to membership only employees at the Crystal City plant, and the Company asserts its willingness to consider all the plants except Crystal City as a single appropriate unit because the Federation at each of them has a majority of employes as members, the question at issue between the parties narrows down to whether Crystal City should constitute a bargaining unit by itself or be included in a unit composed of all the other flat glass factories of the Company, except those at Kokomo and Elwood, Indiana.

The Federation was formed immediately after the passage of the National Industrial Recovery Act in 1933. From the very beginning it sought to represent all flat glass workers in all the Company's plants, including Crystal City. In 1934 the first organizer for the Federation, Robert McVay, came to Crystal City but had little success because of the intense hostility he encountered there, resulting in part

[6] Cf. Matter of United Shipyards, Inc. and Locals No. 12, No. 13, No. 15 of the Industrial Union of Marine and Shipbuilding Workers of America, 5 N. L. R. B. 742.

from the activities of the Crystal City Union which had been founded in 1933. By the end of 1934 the Federation had about 12 members at Crystal City. On November 13, 1934, the Federation entered into a written agreement with the Company, covering all employees at all the plants of the Company, including Crystal City, who were Federation members. Not until January 20, 1937, did the Company for the first time insist that Crystal City be excluded from the agreement between it and the Federation on the ground that the Federation did not have as members a majority of the employees at this plant. The written agreement signed on that day, at the insistence of the Company, despite the Federation's objections, did not cover the Federation members at Crystal City. Since then the Federation has testified its activities at Crystal City, chartering a local there in April 1938 and obtaining approximately 463 members by September 1938.

Thus, almost from its inception, the Federation has at- [fol. 82] tempted to organize the employees at Crystal City and to include them in one bargaining unit with the employees at the Company's other flat glass factories. Since the failure to include Crystal City in the 1937-agreement after having done so on three previous occasions resulted from the demand of the Company and despite the Federation's protests, little weight can be given this omission as an argument against the unit sought by the Federation. Moreover, the Crystal City employees never attempted to bargain with the Company separately from the other plants. The slow progress made by the Federation in obtaining members at Crystal City and its failure to secure as members a majority of the employees there—in sharp contrast to its rapid growth and attainment of majorities at the other plants of the Company—has undoubtedly been due in large part to the fact that at Crystal City, unlike the other plants, it was vigorously opposed by another labor organization, the Crystal City Union, which at one time claimed over 1300 members. However, the Crystal City Union, by virtue of the Board's Decision and Order in Case No. C-778,[1] dated September 22, 1938, based on a stipulation entered into by the Company, the Board, and the Federation, requiring the Company to cease and desist from "recognizing or dealing with the Crystal City Glass Workers' Union as a labor

[1] 8 N. L. R. B., No. 149.

organization, or any person or group of persons purporting to represent said organization," ceased to be able to function as a labor organization within the meaning of Section 2 (5) of the Act, and its existence as such at Crystal City then terminated. [8] The Company has emphasized the [fol. 83] fact that in opposition to the wishes and attempts of the Federation to include the Crystal City plant in a unit with the other glass plants there must be considered the wishes of the Crystal City Union and of the 1,300 employees at Crystal City who signed a petition asking for a separate unit at Crystal City. Since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial. Moreover, the prior existence of the Crystal City Union for over 3 years, until almost the day of the hearing in this proceedings, to a large degree explains the desire of the 1,300 Crystal City employees for a separate bargaining unit, as expressed in their petition, and such desires may well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by those employees. In addition, the evidence strikingly reveals the importance to the Federation, to its members, and to the employees at all the other flat glass plants of the Company of presenting a united front in dealing with the Company. During a 10-day strike conducted by the Federation in January 1935 all the flat glass plants of the Company were closed except Crystal City. During this period the Company filled orders from Crystal City that normally it would have filled from its other plants. Thus to give effect to the wishes of the 1,300 Crystal City employees for a separate bargaining unit, as expressed in their petition, would inevitably hamper and obstruct the far larger number of the Company's

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[8] In its brief the Crystal City Union contends that this stipulation and order are not binding upon it, because it did not intervene or participate in the hearing or sign the stipulation. The Crystal City Union made no attempt voluntarily to intervene or appear in the complaint proceedings. It was not entitled to notice of the hearing in the complaint proceedings and its presence was not necessary to enable the Board to issue an appropriate order against the Company. National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc., and Greyhound Management Company, 303 U. S. 261 (1938).

employees at the other plants in their efforts to organize and to bargain collectively with the Company.[9] Furthermore, at the conclusion of this 10-day strike, the Federation [fol. 84] secured a 5-cent wage increase. Not only was this wage increase immediately granted to the Crystal City employees, but also, since the increase was retroactive and this plant had not closed during the strike, the Crystal City employees, because of the strike called by the Federation, received extra pay for the work they did to impede the success of the strike. Under these circumstances we cannot regard the wishes of the 1,300 employees at Crystal City as being decisive of the issue here presented.[10] Nor are we impressed by the argument that the absence of any "union" background differentiates Crystal City from the other plants. Since 1934 both the Federation and the Crystal City Union have been active at this plant. Moreover, the very inexperience of Crystal City employees in collective bargaining is a cogent reason for giving them the benefit and use of the services of the more experienced employees at the other plants by having them bargain together with such employees.

The chief, if not the sole, respects in which Crystal City differs from the other flat glass plants are the small membership of the Federation there and the desire of many employees there for a separate bargaining unit. For reasons set forth in the previous paragraph, these factors do not seem controlling to us in view of all the circumstances of this case. On the other hand, we have carefully examined the entire record in this proceeding and are unable to find any substantial reason why the request of the Fed-

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[9] Cf. Matter of American Hardware Corporation and United Electrical and Radio Workers of America, 4 N. L. R. B. 412; Matter of Tennessee Copper Company and A. F. of L. Federal Union No. 21164, 5 N. L. R. B. 768; Matter of C. A. Lund Company and Novelty Workers Union, Local 1866 (A. F. of L.) successor, 6 N. L. R. B. 423; Matter of Inland Steel Company and Steel Workers Organizing Committee and Amalgamated Association of Iron, Steel, and Tin Workers of North America, Lodge Nos. 64, 1010, and 1101, 9 N. L. R. B., No. 73.

[10] Cf. Matter of Tennessee Electric Power Company and International Brotherhood of Electrical Workers, 7 N. L. R. B. 24.

eration for a single bargaining unit for all the flat glass plants of the Company should not be granted as the best method of insuring to all employees the full benefit of their right to self-organization and collective bargaining under the Act.[11] Almost without exception the reasons advanced [fol. 85] by the Company or the Crystal City Union as to why the Crystal City plant would function better as a separate bargaining unit apply with equal if not greater force to any one of the Company's other flat glass plants which have bargained together successfully in one unit since 1934. The Company emphasizes the large amount of control vested in the Crystal City plant's superintendent over labor and other policies, but the other plant superintendents have similar powers. With the fact that Crystal City is almost 700 miles away from other plants making the same product, plate and safety glass, must be considered the fact that the almost equally great distances separating the window glass plants have not prevented their bargaining together successfully. The Crystal City plant is an independent unit in the sense that there is almost no interchange of workers between it and the other plants, and that it neither receives nor sends materials to the other plants, but each of the other plants is equally independent of the rest. The wages, the working hours and conditions, and the manufacturing processes in effect at Crystal City differ very little, if at all, from those in effect at the Company's other flat glass plants. Such differences as exist are no greater than those found among the Company's other flat glass plants, and inasmuch as they have bargained together successfully since 1934 despite these differences, we are unable to see any reason why Crystal City should experience difficulty because of any such differences in bargaining together with the other flat glass plants of the Company.[12]

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[11] Cf. Matter of American Steel and Wire Company and Steel and Wire Workers Protective Association, 5 N. L. R. B. 871.

[12] Compare such decisions as Matter of Atlantic Refining Company and Local Nos. 310 and 318, International Association of Oil Field, Gas Well and Refinery Workers of America, 1 N. L. R. B. 359; Matter of Motor Transport Company and General Chauffeurs, Teamsters and Helpers, Local Union No. 200, 2 N. L. R. B. 492; Matter of Hoffman Beverage Company and Joint Local Executive Board of

[fol. 86] We find that the production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio: Clarksburg, West Vir-

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International Union of United Brewery, Flour, Cereal, and Soft Drink Workers of America, 3 N. L. R. B. 584; Matter of Chase Brass and Copper Company, Inc., and Waterbury Brass Workers Union, 4 N. L. R. B. 47; Matter of Industrial Rayon Corporation, a Delaware Corporation, and Textile Workers Organizing Committee, 7 N. L. R. B. 878; and Matter of Belmont Iron Works and International Association of Bridge, Structural, and Ornamental Iron Workers, 9 N. L. R. B., No. 109, in which the Board refused to find appropriate units consisting of many plants of one employer because of the lack of any history of collective bargaining or union organization proving such units feasible, with such decisions as Matter of Portland Gas and Coke Company and Gas and Coke Workers Union, Local No. 19591, affiliated with the American Federation of Labor, and Gasco Employees Association, 2 N. L. R. B. 552; Matter of Remington Rand, Inc. and Remington Rand Joint Protective Board of the District Council Office Equipment Workers, 2 N. L. R. B. 626, 642-43; Matter of Shell Oil Company of California and International Association of Oil Field, Gas Well and Refinery Workers of America, International Association of Machinists, International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers, International Brotherhood of Blacksmiths, Drop Forgers and Helpers, International Brotherhood of Electrical Workers, and Welders International Association, Intervenor, 2 N. L. R. B. 835; Matter of Rossie Velvet Company and Charles B. Rayhall and Textile Workers Organizing Committee of the Committee for Industrial Organization, 3 N. L. R. B. 804; Matter of Todd Shipyards Corporation, Robins Dry Dock Corporation and Repair Co., and Tietjen and Lang Dry Dock Co. and Industrial Union of Marine and Shipbuilding Workers of America, 5 N. L. R. B. 20, and the decisions cited in footnotes 9, 10, and 11, supra in which the Board found appropriate multi-plant units, despite distances and differences between the plants, where the history of union organization and collective bargaining proved such units feasible and desirable.

ginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. The determination of representatives

At the hearing it was stipulated by all parties not only that the Federation has as members a majority of the [fol. 87] employees at each plant in the appropriate unit except Crystal City, but also that the Federation has as members a majority of all the employees in the appropriate unit. We are satisfied, under the circumstances of this case, that a majority of all the employees in the appropriate unit are members of the Federation.

We find that the Federation has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

Conclusions of Law

1. A question affecting commerce has arisen concerning the representation of employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Ford City, Pennsylvania; and Creighton, Pennsylvania, within the meaning of Section 9(c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining

within the meaning of Section 9(b) of the National Labor Relations Act.

3. Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all the employees in such unit for the purposes of collective bargain- [fol. 88] ing, within the meaning of Section 9 (a) of the National Labor Relations Act.

Certification of Representatives

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended.

It Is Hereby Certified that Federation of Flat Glass Workers of America, affiliated with C. I. O., has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees, not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

Signed at Washington, D. C., this 13th day of January 1939.

J. Warren Madden, Chairman. Edwin S. Smith, Member. National Labor Relations Board. (Seal.)

[fol. 89] BOARD'S EX. 3-A

[fols. 90-91] Before the National Labor Relations Board,
Sixth Region

Case No. VI-R-91

In the Matter of PITTSBURGH PLATE GLASS COMPANY

and

FEDERATION OF FLAT GLASS WORKERS OF AMERICA, affiliated with the C. I. O.

United States Court Room No. 4,
Sixth Floor,
New Post Office Building,
Pittsburgh, Pennsylvania,
October 13, 1938.

The above entitled matter came on for hearing, pursuant to notice, at 10:00 o'clock A. M., E. S. T.

Before

Tilford E. Dudley, Trial Examiner.

APPEARANCES

Smith, Buchanan & Ingersoll, by John G. Buchanan, Union Trust Building, Pittsburgh, Pennsylvania, and J. Wesley McAfee and William J. Kyle, Jr., St. Louis, Missouri, appearing for the Respondent.

H. B. Holmes and William Lewis, Columbus, Ohio, appearing for Flat Glass Workers' Union.

Fred J. Hoffmeister, 208 N. Broadway, St. Louis, Missouri, appearing for Crystal City Glass Workers' Union.

Robert H. Kleeb, 1030 Federal Building, Pittsburgh, Pennsylvania, appearing for the National Labor Relations Board (Regional Attorney).

[fol. 92] PROCEEDINGS

Trial Examiner Dudley: I call to order the hearing in the matter of Pittsburgh Plate Glass Company and the Federation of Flat Glass Workers of America, affiliated with the C. I. O., known as Case No. VI-R-91.

First I would like to check the appearances of Counsel for the various parties involved in the hearing. Then I think I had better make an announcement of the way in which we conduct hearings, and after that I will have the Counsel for the Board introduce whatever pleadings he has in the way of Exhibits, so that we may know how to proceed, and from that point on we will take up motions.

By way of appearance I have first the appearance for the Pittsburgh Plate Glass Company by the law firm of Smith, Buchanan & Ingersoll, represented by John G. Buchanan and Mr. William J. Kyle, Jr.

I have the appearance on behalf of the Federation of Flat Glass Workers of America, affiliated with the C. I. O., of Mr. H. B. Holmes and Mr. William Lewis.

I have the appearance on behalf of the Crystal City Glass Workers' Union of Mr. Fred J. Hoffmeister and Mr. J. Wesley McAfee.

Mr. McAfee: Mr. Examiner, I appear with Mr. Buchanan for the Pittsburgh Plate Glass Company.

Trial Examiner Dudley: That leaves Mr. Fred J. Hoff-
[fol. 93] meister on behalf of the Crystal City Glass Workers' Union.

And I have the appearance on behalf of the National Labor Relations Board of Mr. Robert H. Kleeb.

Now, are there any other appearances? Is anybody else here representing any parties? Or may I state it this way, is there anybody here, either lawyer or organizer or any other kind of representative of the Window Glass Cutters' League affiliated with the A. F. of L.? Apparently not.

I will now take up the question of methods of procedure. I wish to inform all parties that the Board's Reporter makes the only official transcript of these proceedings. Citations in briefs or arguments based upon the record must cite the official transcript in all references to the record. The Board will not certify any transcript other than its official transcript for use in any court litigation.

In regard to the actual conduct of the hearing and demeanor of Counsel and witnesses, examination of witnesses and such matters as adjournments to lunch and week-ends, I wish in general to follow whatever customs prevail throughout the Bar and Court in this vicinity. If there is any reason for any exception we can take it up when the occasion may arise.

In regard to procedure, you know that Section 10 of the

Act provides that Rules of Court Procedure shall not be controlling in these hearings. However, I should like to follow the rules of evidence as far as we could. There will [fol. 94] be times when it will save our time or energy in getting to the truth of whatever matter is before us to depart from the rule. Sometimes that departure will be only temporary and at other times it will prevail throughout the case. This is true of the hearsay ruling, and also sometimes to the laying of the foundation for the introduction of documents false or may consider it by the Federal Court in John Bene against the Federal Trade Commission (299 Federal 468). The Court in that case said that evidence or testimony, even though legally incompetent, if of the kind that usually affects fairminded men in the conduct of their daily and more important affairs, should be received and considered; but it should be fairly done. That will be my attitude here, to receive such evidence with strict impartiality among all of the parties to the hearing.

In regard to the arguments that may come up on motions or on exceptions or on objections to testimony and likewise in regard to arguments at the close of the hearing I wish to announce that I will be glad to hear any and all arguments from all counsel and all parties. However, in order that the record may not be too long and your expenses may not be too large, we find it generally wise to have those arguments off the record. You can see that the arguments made here are largely for my guidance. If after receiving the argument I make a ruling that is incorrect you have the right to take that up in a brief which may be filed or argued before [fol. 95] the Board itself. Inasmuch as you have the right of oral argument before the Board you are protected in the event that I make a ruling that is erroneous.

However, if any Party desires to state on the record the substance of his argument so that the record will show his point so that there is no possibility of any error in this regard, he may state on the record the substance of it.

During the course of the hearing you will probably have motions that will be denied and exceptions will be desired by the various Parties. Rather than ask each Party to request an exception and have the exception granted, I think it is much better if we rule now that exceptions will be granted automatically to any Party who loses by reason of my rulings on a motion or on objections to testimony or any

such rulings, so that whenever any Party loses by my ruling he is automatically granted an exception.

Are there any questions which any of you wish to ask in regard to these General Rules? We will tell you how they are to be applied during the hearing.

May I ask Counsel for the Board then if he will offer whatever pleadings he may have in the case?

Mr. Holmes: If the Court please, before the stipulations are entered I would like to have the privilege of amending the original petition in just a very minor detail. The Court [fol. 96] will notice that the petition provides——

Trial Examiner Dudley: Just a second, I don't even have a petition before me until Mr. Kleeb offers it in evidence, so I do not know what you are talking about.

Mr. Kleeb: If the Trial Examiner please, Counsel for the Board wishes at this time to offer in evidence as Board's Exhibit No. 1, the original Notice of Hearing; the original petition filed by the Federation of Flat Glass Workers of America, pursuant to Section 9-C of the National Labor Relations Act on April 4, 1938 and the original Amended Petition filed by the same Union May 13, 1938; a copy of the Board's Rules and Regulations Series No. 1 as Amended; a copy of the order directing investigation and hearing, that is the Order of the Board, and wish to say at this point that this order consolidated this case with a Complaint Case—that is what is commonly known to the Board as a Complaint Case, involving a plant of this Company in Crystal City, Missouri.

Subsequently there is a severance of the two cases. I am stating this to explain why the order directed this investigation and hearing and consolidated another case with this.

Also as a part of Exhibit No. 1, a copy of the Board's Order of Severance, severing this case from the case which I have previously mentioned. Affidavit of Service of the Notice of Hearing upon the Company, the Federation of Flat Glass Workers of America and the Window Glass [fol. 97] Cutters' League. The Window Glass Cutters' League was served with Notice of Hearing, although it is specifically excluded from the contended for unit set forth in the petition of the Flat Glass Workers. However, it was deemed necessary to give them Notice of Hearing so that if they saw fit.

A copy of the Order designating Tilford E. Dudley as Trial Examiner at this hearing.

They are all the pleadings, if the Trial Examiner please, at this time.

Trial Examiner Dudley: Is there any objection to the Exhibit being admitted in evidence?

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection.

Trial Examiner Dudley: There being no objections they will be admitted in evidence as Board's Exhibit No. 1.

(The papers referred to were received in evidence and marked Board's Exhibit No. 1-A, 1-B, 1-C, 1-D, and 1-E, respectively.)

Mr. Holmes: Now, if the Court please, on the original petition filed April 4, 1938, under the paragraph "Approximate Number of Employees," 10,000,—"Description of the Bargaining Unit which Petitioner Claims is Appropriate,"—we wish to add these four words: "All protection and maintenance employes except clerical." The part that we wish to amend and to add is directly connected with [fol. 98] production. In other words we wish to include the clerical employees directly connected with production and exclude all other clerical help.

Trial Examiner Dudley: You mean to exclude clerical help not directly connected with production—those you are excluding?

Mr. Holmes: Yes, your Honor.

Mr. Buchanan: If the Examiner please, it is difficult for me to comprehend what this is meant to be. I don't know what clerical employees are connected with production. Commonly there are no clerical employees connected with production. Perhaps Mr. Holmes can explain.

Mr. Holmes: I think probably we have not to exceed twenty or twenty-five employees who are directly connected with the production part and who are employed from the clerical standpoint in the plant.

Trial Examiner Dudley: Perhaps it will help Mr. Buchanan if you will tell him what they do. Do they work in the plant?

Mr. Holmes: Yes, the bookers and ones who work in the plant.

Mr. Buchanan: I would like to confer for a moment with my client. If the Examiner please, if the employees intended to be covered by the proposed amendment are book-

ers or other employees on an hourly basis, we have no objection to the amendment. Do they work in the office or in [fol. 99] the plant?

Mr. Holmes: In the plant.

Mr. Buchanan: No objection to the amendment on the part of the Company.

Mr. Hoffmeister: No objection on the part of the Crystal City Glass Workers' Union.

Trial Examiner Dudley: There being no objection, I will grant the motion of counsel to amend the petition.

Are there any other motions to amend at this time? If not, I will ask——

Mr. Hoffmeister: If the Court please, is this the time for motions?

Trial Examiner Dudley: Yes.

Mr. Hoffmeister: On behalf of the Crystal City Glass Workers' Union I desire to ask leave at this time to file a motion for leave to intervene. (Discussion at side Bar off the record.)

Trial Examiner Dudley: Of- the record, Mr. Reporter, I deny the motion of the Crystal City Glass Workers' Union for leave to intervene in this hearing on the ground that in my opinion they are already parties to this proceeding, and in that connection I point out that their names in the petition May 13, 1938, as an individual or labor organization claiming to represent the employees as a bargaining unit, and by virtue of Article III, Section 3 of the Rules and Regulations [fol. 100] of the Labor Board, they are considered a part of the proceedings, and a motion to intervene is not necessary.

Perhaps we had better have your motion admitted in evidence along with the rest of the proceedings.

Mr. Hoffmeister: Yes, I would like to have the motion to intervene made a part of the record in this case, your Honor.

Trial Examiner Dudley: Let us admit it as Board's Exhibit No. 2 with the understanding that the Board is not agreeing to it. I am admitting the original petition as Board's Exhibit No. 2.

(The paper referred to was marked Board's Exhibit No. 2 and was received in evidence as Board's Exhibit No. 2.)

Mr. Kleeb: In order to clarify the Board's position on this question of the Crystal City Glass Workers' Union

petition to intervene, the Trial Examiner has taken the position that they are a party to the proceeding by virtue of the fact that they are mentioned in the Flat Glass Workers' petition. Counsel for the Board well realizes the obligation of the Board to serve formal notice upon any labor organization in interest. The pleadings show that such a notice was not served upon the Crystal City Glass Workers' Union.

To explain the position of the Sixth Region on that point, I wish to state that taking notice of the Board's [fol. 101] decision of September 22, 1938 in case C-778, taking notice of that decision involving the Pittsburgh Plate Glass Company and the Federation of Flat Glass Workers of America, under which the Crystal City Glass Workers' Union was involved, the Sixth Region concluded that this organization, the Crystal City Glass Workers' Union, was a Union existing by virtue of an unfair labor practice of the Company, and therefore was not entitled to formal notice of this proceeding.

That is our reason, Mr. Trial Examiner, for not having served that organization with formal notice. I didn't want to be found guilty of being neglectful in my duty.

Mr. Hoffmeister: Mr. Trial Examiner, on behalf of the Crystal City Glass Workers' Union at this time I waived formal notice of hearing that would otherwise be necessary.

Trial Examiner Dudley: Are there any other matters to be presented at this time?

Mr. Hoffmeister: If the Trial Examiner please, I have here a petition which has been signed by 1334 signatures, who I understand are employees of the Pittsburgh Plate Glass Company at their Crystal City Glass Plant No. 9, and my position in reference to this petition is that it was entrusted to me to bring up here and file with your Honor. That is that petition (indicating). Your Honor, I have one copy of it, which is a photostatic copy if counsel wants to examine it—one positive and one negative photostatic copy.

[fol. 102] Mr. Moore: Of course on behalf of the Plate Glass Workers, we are objecting to the filing of this particular pleading or petition. I might suggest if it is possible for the Examiner, he might delay a ruling on this particular document until such a time as I can check it, but the real reason that we think it is objectionable, first

of all of course we contend that this pretended member petition down in Crystal City has no standing insofar as the Board is concerned. Then in the next place we contend it is irrelevant because it does not enter into this controversy at all. And then in the next place we think that there are a number of signers and employees signing this particular application that are not included in this petition or amendment, and we also think there are outsiders who are even outside of the employment of the Pittsburgh Plate Glass Company that have signed the petition.

Now, if that is the truth and we can check that, and I can make the firm statement to your Honor in regard to those facts, then that may have some bearing on the admissability as far as that is concerned, and it could be entered as pleadings in this case. It is more a petition to intervene, is it not?

Mr. Hoffmeister: No. If your Honor please, this is a petition signed by members of the Crystal City Glass Workers' Union who are employees at Plant No. 9. It is not being filed in behalf of any particular organization, or [fol. 103] in behalf of any particular Union. It is a petition of the employees signing, and the first page as arranged thereto shows the purpose of it, the written page. It is done for the purpose of making their desires and their wishes in this proceeding known to your Honor. As employees, not as members of any particular organization or Union.

With reference to the authenticity of these signatures, the employees are prepared to prove that the signatures are authentic.

Trial Examiner Dudley: If the people signing this petition are your clients, do you represent them.

Mr. Hoffmeister: Some of the individuals signed. I say most of them of course are members of the Crystal City Glass Workers' Union, because we contend that the Crystal City Glass Workers' Union have approximately 1300 members, employees of Plant No. 9, so naturally their names appear on this petition as employees.

Their position that I take for them is as members of the Crystal City Glass Workers' Union. There are 1334 signatures on that petition. They could change the names of the Crystal City Glass Workers' Union, and it contains other names than the members of any organization. In other words, there are employees in Plant No. 9 who are not members of any organization; there are employees of Plant

No. 9, of course, who don't want to belong to any. Of [fol. 104] course I do not represent the employees in this matter; I was asked to give it only because I was coming to Pittsburgh. If it has any weight or gives any light to the Examiner in reference to the position of the employees there, that is the purpose of it.

Trial Examiner Dudley: Do you know what proportion of the names are members of the Crystal City Glass Workers' Union?

Mr. Hoffmeister: I would say probably all except 100 are members of the Crystal Glass Workers' Union.

Mr. Holmes: It is our contention in objecting to this particular document that it was prepared and circulated by the Company on Company time in direct violation of the decision of the Board of September 22, 1938, and it is further our contention that a number of the men are the persons that are purported to have signed this particular document—didn't know what they were signing when they signed it, that they were coerced into signing this document in a number of cases, as I could cite to this Board, and you know of your own knowledge that a petition circulated throughout the plant during working hours is a violation, and we are in position to show if necessary, that this was done. We have twenty-five men in the plant who have made affidavit as to how this was obtained, and that is the reason we object to it, because it is not showing the true expression of the people that it is supposed to represent; in other words, it is a camouflage.

Mr. McAfee: If the Examiner please, I should like to [fol. 105] make this statement to avoid misunderstanding in regard to this. The Company has had nothing whatever to do with it, never saw it, did not foster, encourage, contribute to its preparation, circulation or presentation here at this time.

Mr. Buchanan: I would like to add, also, Mr. Examiner, that if Judge Holmes is charging these things as facts, he should file a complaint against this Company. This is not the proper form in which to make the charge. The charge is entirely gratuitous. I haven't the slightest idea of what the basis of his allegations is.

Trial Examiner Dudley: Mr. McAfee, do you know anything about the circumstances surrounding this petition?

Mr. McAfee: Your Honor, we don't know anything about the signing. It was circulated by the employees.

Trial Examiner Dudley: Was it circulated during working hours?

Mr. McAfee: No, absolutely not. My information is that there were no signatures obtained at the plant.

Trial Examiner Dudley: Apparently the petition does not call for any ruling at this time. If there is no ruling required, no ruling will be made.

Mr. Holmes: Of course, I am objecting to the admission of this particular document as pleading in this particular case.

Trial Examiner Dudley: Nobody has offered it yet.

[fol. 106] Mr. Hoffmeister: I merely handed it to your Honor because I had it in my possession, and I was asked to deliver it to you.

Mr. Holmes: If the Examiner please, inasmuch as it has been offered, for the benefit of this Trial Examiner, and on behalf of the Federation of Flat Glass Workers of America, I wish to offer some affidavits, fifteen or sixteen of them, in which it sets out the way in which the particular document was procured, and also I wish to include in this a general notice that was issued by the Pittsburgh Plate Glass Company from the general office through the Crystal City Plant for your examination.

Mr. Buchanan: May I see the last paper?

(Paper handed to Mr. Buchanan by Mr. Moore.)

Trial Examiner Dudley: Off the record, Mr. Reporter.

Mr. Hoffmeister: If your Honor please, on the record, to settle this controversy at this time I will withdraw the petition.

Trial Examiner Dudley: Are there any other motions to come before me?

Mr. Hoffmeister: I have no more motions.

Mr. Buchanan: I presume a motion for the direction of an election should naturally come after testimony is produced?

Trial Examiner Dudley: I should think it would be better after we get some testimony.

[fol. 107] Mr. Kleeb: If your Honor please, counsel for the Company and counsel for the Board have succeeded in preparing a Stipulation covering the general corporate structure of the Company, the nature of its business and in

particular the Interstate shipments, inbound and outbound to the domestic glass manufacturing plants of the Company, these plants being the ones in issue in particular in this hearing. If there is no objection, I wish at this time to offer said Stipulation in evidence as Board's Exhibit No. 3.

(The paper referred to was marked Board's Exhibit No. 3, for identification.)

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection on behalf of the Crystal City Glass Workers' Union.

Trial Examiner Dudley: There being no objection, the document may be admitted into evidence as Board's Exhibit No. 3.

(The paper referred to, heretofore marked for identification as Board's Exhibit No. 3, was received in evidence.)

Mr. Kleeb: The Board at this time has no further pleadings or stipulations to offer and will step aside while the Petitioners proceed.

Trial Examiner Dudley: In that connection I believe there was one more announcement that I should read. (Reads):

"In relation to the Board's investigation concerning [fol. 108] the selection of representatives for the purposes of collective bargaining in this case, it is desired at the outset to make clear the position of the Trial Examiner and the Board's attorney. That position is one of strict neutrality. The sole objective of the Board's officers here is to obtain a full and complete factual record upon which the Board itself may discharge its duties under Section 9 of the National Labor Relations Act.

It is the duty of the Trial Examiner to see that the record is full enough to contain all the material evidence but to limit the testimony and refuse to permit the introduction of evidence which is not material and relevant. His discretion is limited by this duty with which he is charged. Your attention should also be called to the fact that, in this type of case, as distinguished from a case where the employer is charged with the commission of unfair labor practices in violation of the Act, the Trial Examiner does not render an intermediate report to the parties. The case goes directly to the Board for decision.

In general, the Board's attorney will present evidence bearing upon the question of the Board's jurisdiction over the parties and the subject matter of the investigation, while the representatives of the other parties will be expected (with the assistance of the Board's officers if necessary) to present evidence upon the remaining issues. The [fol. 109] services of the Board's officers are equally at the disposal of all parties to the proceeding in developing such material evidence.

We shall inquire as to factors which help to answer the question of what is the appropriate bargaining unit, including the history of organizational efforts in its plants. We shall seek information about the nature of the question affecting commerce.

The evidence should disclose, as to the labor organizations involved, their identity, time of formation, and general structure, including date as to eligibility of members, with particular reference to the employer here concerned. The time when organization began, the department or group of employees affected, the subsequent growth or decline of membership, present claims as to membership, and relations had with the employer, including the presence or absence of contracts, are all of importance. Information is also desired as to the date as of which the payroll of eligible voters should be taken, for purposes of election or certification.

In considering the appropriate unit for purposes of collective bargaining the proof should reveal the physical properties involved, a detailed breakdown of the nature of work performed by employees as well as an analysis of the numbers of employees engaged in each type of work. The presence or absence of craft organizations should be established, as well as evidence submitted on the identity or dif- [fol. 110] ferentiation of employees' problems as to wages, hours, or working conditions. The past and present history of units used by the employer or by the industry in employee relationship should be disclosed.

Finally, the nature of the problem affecting commerce should be shown by proof as to whether conflicting claims as to representation are being made, or whether the employer questions the representative status of any of the parties.

These suggestions are of necessity not all-inclusive. They may, however, serve to guide the parties to a full and com-

plete factual presentation in which the Board's officers here will, in an entirely neutral capacity, assist. The cooperation of all in order to get these facts as expeditiously as possible is requested."

I think these things will make clear the position of the Board's counsel and myself. Do you have any more to offer at this time, Mr. Kleeb?

Mr. Kleeb: No, sir, I do not.

Mr. Buchanan: If your Honor please, would it be in order for me to make a brief statement of the position of the Company?

Trial Examiner Dudley: Yes.

Mr. Buchanan: Regardless of counsel's statements I am quite sure that my mind is not able to comprehend all of the things that should be introduced either on behalf of the company or of any of the employees or representatives of employees.

[fol. 111] Trial Examiner Dudley: I will be glad to loan you a copy of that statement.

Mr. Buchanan: Thank you, I should like to see it. The position of the Pittsburgh Plate Glass Company in this proceeding is this, it is entirely willing to bargain collectively at any one of its plants, at each of its plants, with any representative of the majority of the employees at that plant. It feels that it should be protected against any situation in which it would be compelled to run counter to the wishes of the majority of the employees in any plant in being required to deal in the matter of collective bargaining with a representative not of the choosing of those employees. Briefly that is our position, and we have no other interest in this proceeding than that, but in view of the circumstances which have been foreshadowed in the opening of this hearing, and probably will be shown by testimony with which I am not acquainted, the Company has a very vital interest in the matter.

Trial Examiner Dudley: I notice you used the expression, "In each of the plants," and the petition refers to quite a number of plants that the Company may have. Is it the position of the Company or do you have a position that you want separate Units at each plant?

Mr. Buchanan: We feel that we must ask a separate unit at any plant if the majority of the employees at that plant do not concur as to the proper agency for collective bar-

[fol. 112] gaining with the majority of employees at another plant. We don't want to be left between the devil and the deep blue sea.

Trial Examiner Dudley: Is the Petitioner ready to proceed?

Mr. Holmes: Well, if the Company makes their statement, I suppose on behalf of the Union that maybe I should say something in way of reply. I do not believe it is necessary.

Trial Examiner Dudley: It is not necessary. You have your petition filed in which I presume you set forth your position. The Company does not have any pleadings on the record, so unless you have something in your position that is not set forth in the record, it is not necessary to make a statement.

Mr. Holmes: Your Honor, I think I should probably state my position with respect to the things that I think it is necessary, or we hope to introduce testimony to prove our contention. Of course it is our contention that instead of having the plant unit as a bargaining agency as contended for by the Company, that we contend that their business and their set-ups are such that they are all directed from their Central Office here in Pittsburgh, and as we have been bargaining with them for all of their other plants, for five or six years, that the most practical way and the best way, the most satisfactory way for the employer as well as the employee, in order to settle their differences peacefully and [fol. 113] without any strike or trouble, that it would be better to deal with them as a unit or as a whole rather than the plant bargaining contract that they would like to have.

We expect the evidence to show that the Pittsburgh Plate Glass Company is so constructed and works in such detail that the plants at Creighton, Pennsylvania, Ford City, Pennsylvania, Clarksburg, West Virginia, Mount Vernon, Ohio, Henryetta, Oklahoma, Crystal City, Missouri, should be classified as one complete unit of the Pittsburgh Plate Glass Company, and the Pittsburgh Plate Glass Company should be recognized as the employer and not the plant.

We expect to show by the testimony that the plant at Crystal City is so recognized by the Pittsburgh Plate Glass Company as a part of this unit so that after these agreements had been agreed to with the Federation of Flat Glass Workers, that the Pittsburgh Plate Glass Company has put into effect in their other plants,—has put into effect

in Crystal City the same wages and same working conditions that they have in their other plants. In other words, Crystal City never was included, and it was not excluded in the first contract, we expect the evidence to show,—I don't know just why, but they probably have reasons for it, but after the first contract, then it was excluded.

We expect the evidence to show that even though it was excluded, it was the policy of the Company that the same [fol. 114] conditions and the same wages should apply, and that it was entirely governed from the Central Unit as a part of the whole.

We expect the testimony to show that a centralized labor policy directed by Fred Keightley, the Director of Labor Relations of the Company is in force, and we further expect to show that there is a partial operation in one plant and a finish in another; in other words, glass is made over here in Pennsylvania and shipped to Crystal City, or made in Ohio and shipped over to Crystal City and there finished and put out as finished products; in other words, employees over here that we are bargaining for are making a part of this particular product, and over at the other plant they are finishing and sending it out.

Also an exchange of goods between the different plants, which we contend are part of the employees of the unit of the Pittsburgh Plate Glass Company. That there is a centralization of sales and the direction of sales, warehouses in various sections of the country, from which warehouses these goods are sold from all the plants in the country.

On a number of occasions we expect the testimony to show that the Federation of Flat Glass Workers have asked the Pittsburgh Plate Glass Company to include the Crystal City plant in their negotiations with them as part of the agreement, in other words, these other contracts we expect the evidence to show, that it provides that we are the bargaining agents for the employees who are members of our [fol. 115] Union.

Now, we have repeatedly asked the Company to grant to us the same privilege for our members in Crystal City which have been repeatedly denied, and we expect the evidence to show that they refused on the basis that we did not have a majority of the employees of Crystal City as members of our Union, and until such time as we would have a majority of membership in that particular plant that they

would refuse to consider or recognize us as having any bargaining rights in that particular plant.

We expect the evidence to show that the Flat Glass Workers of America has approximately 85% of the plant employees as included in the particular specifications of the petition, that is taking all plants.

The evidence will show that we have, I think at least one-third of the members of Crystal City, that is of the employees rather in that particular division, that are referred to in the petition at Crystal City. The evidence we expect to show is that we would have a lot more if it were not for the conditions that exist at Crystal City, and we contend on behalf of the Union that that is a part of this case, that is to show that it is the best interest of the employees and the Company and for everyone, the public in general, to have a Central Unit as a bargaining agent.

We expect the evidence to show that repeatedly the Union [fol. 116] has met in conference with the Company and agreements have been signed with the Company and the Union for many such members in their plants, for not only one of the plants, but for all the plants with the exception of Crystal City.

We expect to produce testimony to the effect that we have out of 10,000 members, employees engaged in the work as specified in the petition as filed here, approximately 8,000 members, and it is our contention that the 8,000 members are employees of this particular company who are members of this Union should be the ones to bargain with respect to their working conditions and their hours and so forth.

Mr. Hoffmeister: If the Court please——

Trial Examiner Dudley: You don't need to make a statement unless you wish.

Mr. Hoffmeister: I want to make a statement inasmuch as counsel for the Federation of Flat Glass Workers has made his statement. Very briefly I want to state the position of the Crystal City Glass Workers' Union. When the first statement was made by counsel, it was apparent that this proceeding is going to revolve about the Crystal City plant, which is Pittsburgh Plate Glass Company Plant No. 9. We expect to show on behalf of Plant No. 9 that approximately 1,300 out of the total of 1,600 employees are members of the Crystal City Glass Workers' Union. We expect to show that with reference to the integration at the plant

the conditions are entirely different, they are very differ-
[fol. 117] ent in Crystal City than in any other plant. We expect to show that there are certain distinct features with reference to the Crystal City plant that do not exist at any other plant.

We expect to show further that community conditions differ entirely at Crystal City from what they are at any other plant.

We expect to show that the social status, the economic status and the community status in general of the employees who work in the Crystal City plant is entirely different than it is in any other plant of the Pittsburgh Plate Glass Company.

If we show those things we feel that the proper unit for the Crystal City plant is the plant unit because of the conditions that I have mentioned, and if any other organization with any other unit was recognized at that plant, it would defeat the purpose of the Act.

Trial Examiner Dudley: Are there any more statements? If not, then is the Petitioner ready to proceed with testimony?

Mr. Holmes: We are ready, your Honor.

I will call Mr. Clause of the Pittsburgh Plate Glass Company.

Robert L. Clause, a witness called on behalf of the Petitioner, having been first duly sworn, was examined and testified as follows:

Trial Examiner Dudley: May I ask for all witnesses to
[fol. 118] get the names, including the spelling of the names. I have never had a case in which there was not considerable difference later as to how to spell the names.

Direct examination.

By Mr. Holmes:

Q. Will you state your name, Mr. Clause, please, to the Examiner?

A. Robert L. Clause.

Q. How do you spell it?

A. C-l-a-u-s-e.

Q. Where do you live, Mr. Clause?

A. Sewickley, Pennsylvania.

Q. What is your employment?

A. I am Vice President and Chairman of the Manufacturing Department of the Flat Glass Division.

Q. Of the Pittsburgh Plate Glass Company, is that right?

A. Yes, sir.

Q. Now, as Vice President and Chairman of the Manufacturing Division—is that the title?

A. Manufacturing Department.

Q. Manufacturing Department. Now, when you say you are the head of the Manufacturing Department, just what do you mean by that?

A. Why, I will admit that that is a misnomer; that has been discussed in our office many times, but it has to do with the Manufacturing Department of the Flat Glass Division.

[fol. 119] Q. Well now, when you say "with the manufacturing department" that includes the manufacturing departments of the various plants scattered around all over the United States?

A. Of the Glass Division.

Q. Of the Glass Division?

A. Yes.

Q. That would include Crystal City?

A. Yes, sir.

Q. Ford City and Creighton, Pennsylvania, Mount Vernon, Ohio, and Crystal City, is that right?

A. Yes, sir.

Q. Now, as the plant manager, what are your duties?

A. Did you use the words "plant manager"?

Q. Not plant manager, that is plant supervisor, I might say. Are you the plant supervisor?

A. Well, I have direct charge of the production of flat glass.

Q. General production?

A. General production of plate window glass.

Q. Can you detail in just a little more detail just what your duties consist of?

A. I might say before I enlarge on your question that we have a General Superintendent of Plate Glass operations and we have a general superintendent of window glass operations.

Q. But they are under your supervision, though?

[fol. 120] A. They are under my supervision.

Q. You are the big boss of the whole works, is that right?

A. They call me that, I guess.

Q. Well now, just in detail and not too long, but in detail, what are your duties?

A. Well, how should I go farther than to say that I have direct charge of all the detail that affects those operations, purchasing, engineering, safety, insurance.

Q. You see, I am on the outside looking in and you are on the inside, looking out. You are in better position to know just what you have to do in this case than I am. You see, I don't know.

A. Well then, I would say as briefly as possible that my duties consist of the matter of purchasing, engineering, expenditures of money, insurance, safety, technical work such as research development through various people in my department, the direction of the work, what they make and when they make it, the matter of costs.

Q. And your office is located here in Pittsburgh?

A. Correct.

Q. And the different manufactured products that you have made in the different plants, they are manufactured at your direction. Is that not true?

A. That is correct.

Q. That is if a certain order was required down in Crystal [fol. 121] City or out in Ohio or some other place, you would be the one to direct the starting of the operation of that particular product. Is that right?

A. At the direction of the Sales Department, yes.

Q. At the direction of the Sales department. Now, the Sales department also is located here in Pittsburgh, isn't that right?

A. That is right.

Q. At the head office?

A. That is right.

Q. And it is through that head office that the work is directed for all the plants throughout the United States, is that right?

A. You are confining yourself to plate glass and window glass, are you?

Q. That is right.

A. Yes, sir, that is right.

Q. Now, can you give to us the approximate number of men employed in the six plants in dispute here? That is in the window and plate glass division of the Company?

A. You are speaking of the two plants at Ford City?

Q. Creighton, Pennsylvania.

A. You have probably in mind two plants at Creighton, Pennsylvania—it is now one plant—and the three window glass plants.

[fol. 122] Q. And Henryetta, Oklahoma, Mount Vernon, Ohio, Crystal City, Missouri.

Mr. Buchanan: If your Honor please, I suggest that we have a table here in Court that might be used for this purpose if Mr. Holmes wishes.

Q. This is just a general examination as to the general situation. I am not insisting on exact figures.

Trial Examiner Dudley: Do you have the figures as to how the payrolls are broken down?

Mr. Buchanan: Yes.

Mr. Holmes: I think Mr. Keightley is the man to produce that.

The Witness: Yes.

Trial Examiner Dudley: Do you want that for this witness?

Mr. Holmes: No, this is just general.

Trial Examiner Dudley: Go ahead.

A. If the plants were all operating we would have something in the neighborhood of 6,000 men in plants other than Crystal City, and the peak operation at that plant I think has been 2,000. At the present time the operations are so low that I figure it would be very different.

Q. At the present time you would probably have, including Crystal City, 8,000 men, don't you suppose?

A. No, I don't suppose.

Q. How many did you have on January 1st, 1938?

[fol. 123] Mr. Buchanan: Objected to as irrelevant and immaterial.

Trial Examiner Dudley: Let him answer if he knows.

A. I don't know, as a matter of fact. I can say that the window glass plants, some of them, two of them were down, I know, and the third might have been down. Works No. 1 was completely down. You have it down as Duplate. Creighton was probably not running. Ford City, Pennsylvania was running half; Crystal City, Missouri was running half; Works No. 6 running perhaps on a two-thirds basis.

Q. You are more or less familiar, are you not, with the operations at each plant?

A. Yes, sir.

Q. As to what is produced there?

A. Yes, sir.

Q. Will you just give to us more of the details in the manufacture with respect to what product is partly finished say in the Creighton Plant or partly finished in the Mount Vernon plant or partly finished in Crystal City. Now, what can you say as to that?

A. I will start with the window glass plants by saying that when a product leaves that plant it is a finished product. Window glass is window glass, and if it goes into safety glass, that is another proposition. As far as window glass is concerned it is a finished product when it leaves the plant.

Q. It is a fact that you use window glass in making safety [fol. 124] glass, isn't that right?

A. That is right.

Q. How do you do that?

A. Well, the safety glass is made up of two pieces of sheet glass, whether window glass or polished plate, with a layer of resinous material between them, and through a process they are cemented together.

Q. Well now, you make window glass at Mount Vernon, Ohio, do you not?

A. Yes, sir.

Q. Do you make any other products there besides window glass?

A. No, sir.

Q. You make window glass alone?

A. That is right.

Q. Well now, you ship window glass, do you, from Mount Vernon down to Crystal City to be made into safety glass at Crystal City?

A. No, we do not.

Q. Do you ship any product from Mount Vernon to Crystal City?

A. No.

Q. What plants do you ship from to Crystal City of material to be finished, or do you ship anything to Crystal City at all to be finished?

[fol. 125] A. We have shipped glass from Creighton to Crystal City to be ground and polished.

Q. Do you know of any other operation?

A. I don't believe so.

Q. How about machinery? Do you send machinery from other plants to Crystal City to be repaired or to be rebuilt or built up?

A. I don't believe we have. We have a shop there but I don't believe we have done any work for other plants. I wouldn't know directly. At the time of construction we might take men from other jobs and our own jobs, but I don't know whether we have done any other work there.

Q. With respect to sending any other products from other plants to Crystal City, is that a continuous operation or how do you do that?

A. It has only been done when we found it cheaper to send the glass out there, or when we were short of rough glass to grind and polish into polished plate. Since that time additional equipment has been added to that so that that is not necessary.

Q. But you have done shipping from this particular plant to Crystal City, and that has been within the last six months or a year, has it not?

Q. I don't believe it has within the last year. We might have shipped some during the early part of 1937.

[fol. 126] Q. None from any other plant in 1938?

A. None.

Q. To your knowledge?

A. No, sir.

Q. Are you familiar with the various construction crews?

A. Crews?

Q. Crews, yes, in the plants.

A. I wouldn't say that I am familiar with it. That is under our engineering department.

Q. You have nothing to do with that particular phase?

A. No, sir.

Q. You have had more or less conferences and dealings with the Union, that is, the Federation of Flat Glass Workers, have you not?

A. Yes, sir.

Q. You have had a number of conferences with them over the various contracts and agreements that you have entered into and the construction of those agreements at different times, have you not?

A. Yes, sir.

Q. Just how did you go about securing those agreements?

A. Are you referring to the early stages of our contract, the contract with the Union?

Q. Yes, that's right, 1934, you had a contract in 1934, did you not?

[fol. 127] A. Well, if you want to call it a contract. I don't believe it is a contract. I believe the one in 1934 was more or less a statement of policy on the part of the company, which when finally acceptable to Mr. McCabe and the representatives that we met at that time, asked that it be signed, and in the signature it refers to an agreement.

Q. And it was accepted as the working agreement between the Company and the Union, was it not?

A. That is correct.

Q. You didn't exclude in that particular contract Crystal City, did you?

A. No, sir.

Q. And by the terms of the contract or by the agreement that you reached, it included all of your employees who were members of the Flat Glass Workers of America, didn't it?

A. That is right.

Q. If they had members in Crystal City at that time then that included them insofar as that particular employee was concerned?

A. If they had any members in the plant, yes.

Q. Then Crystal City would be included insofar as it would affect members who were employees at that time?

A. As far as that agreement is concerned, yes.

Q. Yes, as far as that agreement is concerned. And that working agreement was reached by conferences and letters with Mr. McCabe, who was then President of the Federation [fol. 128] of Flat Glass Workers of America, is that right?

A. That is right.

Q. And next you were in charge of negotiations that were connected with the contract in 1935, were you not?

A. Yes, sir.

Q. Well now, just how was that arrived at?

A. In the first simple agreement that you refer to, made in 1934, there was no time limit as to how long it should run, and a dispute occurred in 1935 in January—I don't remember what the dispute was about as a matter of fact, but in any event it was followed by a conference with Union representatives and the Libby-Owens-Ford Glass Company. That conference was held in Cleveland. There was apparently a dif-

ference of opinion as to some point, and a strike ensued.

Q. What was that difference?

A. Well, it was on the matter of a check-off, closed shop principle. The strike lasted about ten days, I think.

Q. Did wages have anything to do with it?

A. No, I don't think they did. I can honestly say that we wouldn't have broken on the point of wages at that conference.

Mr. Buchanan: Will you speak a little louder, please?

A. I say I can honestly say we wouldn't have broken on the point of wages at that conference. In February a new [fol. 129] agreement was signed terminating the strike.

By Mr. Holmes:

Q. Your agreement concerning wages and working rules for 1935 were signed and accepted November 26, 1935, and signed by you as Vice President, and J. A. Wilson as General Superintendent of the Plate Glass Division, is that right?

A. That is right.

Q. And it is also signed by Fred Keightley, Director of Labor Relations, and by the Federation of Flat Glass Workers of America, by McCabe and the various Vice Presidents and the Board?

A. Yes.

Q. Now, you understood by that particular contract, did you not, that that constituted the agreement between the Pittsburgh Plate Glass Company and those of its employees who were members of the Flat Glass Workers of America, is that right?

A. I haven't the contract in front of me, but I don't know whether that one enumerates the plants.

Q. It don't say so but it says "Flat Glass Workers of America, and to become effective immediately and to remain in full force and effect until November 26, 1936, is that right?

A. That is right.

Q. You didn't exclude any plant insofar as the members of the Union are concerned, did you?

A. No, not in words, but as a matter of fact there were no [fol. 130] representatives there from the Crystal City plant, as there were from all the other plants.

Q. Well then, as a matter of fact, the only reason the Company didn't include the Crystal City plant was because they had no representatives there, is that right?

A. That is right, and no problems concerning the plant were discussed.

Q. What was your interpretation of the contract with respect to recognizing and dealing with the members of the Federation who were your employees? How did you expect to do anything dealing with the employees at Crystal City?

Mr. Buchanan: Objected to as incompetent. The contract speaks for itself.

Trial Examiner Dudley: As I understand, it is the attorney's intention to go into matter which goes beyond the contract. The contract does not cover the Crystal City plant as I understand.

Mr. Holmes: It doesn't make any mention of it, your Honor. It says, "This is a contract between all of the members of the Pittsburgh Plate Glass Company and those of its employees who are members of the Flat Glass Workers of America. Now, I was asking this witness how he expected them to deal with the members of this Union who were employees in Crystal City.

By Mr. Holmes:

Q. How did you intend to do that?

[fol. 131] A. Well, if I may, let us back up a couple of years and indicate how we picked up these various plants.

Q. Well, that's all right.

A. Because it has a bearing on your question, in other words, it answers your question, I believe.

Q. I just prefer to have you answer the question first and then give me the explanation. I like to be courteous.

A. Our attitude was this, that at any time there were a majority of the employees of any plant desiring to be represented by the Federation of Flat Glass Workers we met with them, and in the early stages it was done locally at the plant. The first conferences were held at Ford City and Creighton, and then they finally came in with McCabe to the conference and the first 1934 agreement, if you could call it an agreement, was done in that way. I don't know whether there were any window glass representatives at that conference, so that our attitude is that at any time any majority of employees at any plant that desire the Federation to represent them, we met with them and they were included, and we didn't even question whether they had a

majority. In other words, we had some question in our minds but we couldn't prove it, but when we were satisfied that they represented a majority of the plant, we dealt with them.

Q. Well now, then, the only reason that the specific letter of this contract was not carried out insofar as Crystal City [fol. 132] was concerned was that you interpreted the contract to mean that that must only apply when there was a majority in the various plants, is that right?

A. I think that is right.

Q. Even though the contract does not so specify, that was your interpretation of it?

A. That is right.

Q. Do you know as to the working conditions of the employees, that is in the production end, as to whether they have different wage scales in different plants for the same kind of work, or is it the same,

A. In the main, our wage scales are quite uniform.

Q. Sure, and you agreed with the Federation, did you not, or the Union, on the occupational base rates that were to be paid in the various plants, isn't that right?

A. That is right.

Q. And when they had their conferences or when you had your conferences on behalf of the company and they on behalf of the union, you met and bargained for all of your plants with the exception of Crystal City, did you not?

A. That is right.

Q. You didn't make any distinction as to plant units or to individual plants, but you bargained as a whole, did you not?

A. No, I wouldn't say that we did that altogether. The [fol. 133] window glass plants do not pay the same rates for the same occupation as the plate glass plants, and I remember distinctly in our conference held in Pittsburgh when the window glass group went off and met with the general superintendent of that division and the superintendent of that division and the plate glass groups went off with another group and dealt with the general superintendent of that division.

Q. That was on a basic rates of pay or on the general agreement as to working conditions, and so forth? Is that right?

A. That is right.

Q. But that was only as to the rate of pay, is that right?

A. That is right.

Q. Now, all these conferences that you had with the Union on behalf of the company were held where? They were held in the main office, were they not?

A. Well, not always. The one held in Cleveland, that was referred to. Most of them have been held here.

Q. You have had an agreement with the members of the Union continuously each year since 1934, have you not?

A. That is right.

Q. To and including 1938?

A. That is right.

Q. Well now, will you say to the Examiner that the only reason, or just state—I shouldn't ask the question that way—why was it then that in 1938 and 1937 that Crystal [fol. 134] City was not included as one of your plants of operation?

A. Well, I believe—do you mean why it was not included?

Q. Why was it excluded? Why was it not included in this agreement?

A. The early agreement?

Q. No, in this last agreement.

Q. In this last agreement?

Q. Yes. They wanted you to include it, didn't they?

A. Oh, yes. Because we have felt right along that the Federation did not represent any percentage of people there.

Q. Well now, what percentage do you think is necessary for the Union to have before you would want to deal with them in that particular plant?

A. I would want a majority.

Q. You would want them to have more than fifty-one per cent or fifty per cent?

A. Yes, sir.

Q. How would it be possible for you then to deal with them, that is with your employees there who were members of the Union? How would you deal with them? How would it be possible to deal with them?

A. Are you speaking now of Crystal City Glass Workers' Union?

Q. That is right.

A. I think it was brought out here earlier this morning [fol. 135] that we were negotiating for a contract with the

Crystal City Glass Workers' Union when the charge was filed against us in Crystal City with the St. Louis Labor Board.

Q. And you are familiar with that decision ordering your Company to desist and refuse to continue further relationship with that particular organization, are you not?

A. That is right.

Q. Well now, there is no other organization there, that is at the present time, to your knowledge, is there?

A. No, sir.

Q. Well now, if there should be three hundred or four hundred of your employees who are engaged in the production end of your plant who are members of the Flat Glass Workers of America, do you know of any reason why you should not talk to them about the working conditions insofar as the production end of your plant is concerned?

A. As a matter of fact I think that has been done.

Q. That has been done? Well then, what would be the advantage to the Company or the benefit to the Company when you have your general conference affecting all the other plants? You practically have the same conditions there in this Crystal City plant, do you not, with respect to hours and wages that you have in the other plants? As to making glass, is that right?

A. Fairly so.

[fol. 136] Q. Well now, what advantage would it be to the Company when you enter into conference as to wage scales and so forth,—what advantage would it be not to take along Crystal City?

A. I think it would be a distinct disadvantage if they didn't represent a majority of the employees.

Q. Can you give us any reason why you say that?

A. Well, if there is any right in having a majority rule, it would be wrong to have a manority rule the relationship between the employees and the Management.

Q. Well now, your operations are the same, about; you go through the same process to make glass in Crystal City as over here in Pittsburgh?

A. Approximately that is right.

Q. And have about the same hours and same wages and about the same kind of plant to work in, don't you?

A. That is right.

Q. Now, where would it be of advantage to talk about the working conditions of their employees and the members of this Union?

A. Well, suppose a majority of that plant wanted things operated a little different in regard to their relationship than as carried on by the representatives of the Federation as a whole?

A. Well now, when you entered into the contract in 1935 and 1934, do you know how many members of the Flat Glass [fol. 137] Workers you had in Crystal City?

A. You are speaking of Crystal City, are you?

Q. Yes.

A. Ask that question again, please.

Q. (The Reporter read the previous question).

A. No, I don't know. I don't think they had any.

Q. Well now, how do you know? At the conference there, you remember you had several conferences about that plant down in Crystal City, didn't you?

A. In 1934 and 1935?

Q. Yes.

A. I had never received proof with regard to that.

Q. You had a conference in 1936 with respect to Crystal City?

A. Well, Crystal City was discussed.

Q. And the discussion was that they stated they had a majority?

A. I had no proof of it.

Q. In 1934-1935 do you know whether they had any members there or not?

A. No, I do not.

Q. You don't know whether they had ten or twenty or five thousand?

A. I know they didn't have 5,000 in a plant employing about 1200. Are you speaking of Crystal City now, or [fol. 138] taking the plants as a whole?

—.

A. Well, we had a fair idea that barring Crystal City, the organization was more than fifty per cent represented by the Federation of Flat Glass Workers.

Q. If you have the same working conditions, going back to that former question, if you have the same working conditions, the same hours and the same basic rates of pay in Crystal City as you have in all the other plants because you say you try to keep the plants uniform, then the only dis-

advantage that you think there would be in including Crystal City is the fact that a minority insofar as that one plant would be concerned is directing the affairs of the majority, is that right?

A. That is right.

Q. Well now, if that is your argument, how do you account for the fact that the wages and conditions that are granted to the members of the Federation of Flat Glass Workers in your different plants are then immediately put in force in Crystal City? Now, wouldn't you say that the members of the other plants then in other States are really dictating the bargaining for the employees who are the members of this particular Union, rather than Crystal City? Is that not a fact?

Mr. Buchanan: I object to the question as stating facts not in evidence.

Trial Examiner Dudley: And another objection, you are [fol. 139] arguing with the witness. You are supposed to get the facts only.

Mr. Holmes: I beg pardon. That is probably true. I will withdraw the question.

Q. Calling your attention to interchange of commodities or manufactured products or exchange of products, I might say between the different plants, do you know anything about the shipment of half-inch glass from Ford City to Crystal City to be tempered and turned out?

A. No, I don't happen to know about that particular order.

Q. And do you know whether or not that was shipped in February, February and March, 1938, and at that time Crystal City had not started? They were not in operation in their new big glass tank at that time, were they?

A. No, sir. Ask *we* that last question again. You asked me what time that tank was running?

Q. The new thick glass tank, that is you were not operating a tank that was making this particular material that is manufactured in this half-inch thick glass plant?

A. At what date?

Q. In February and March 1938.

A. We started that tank at that time.

Q. It was not in operation, was it?

A. It was operating in March, I think.

Q. Well, February and March 1938, you shipped the glass [fol. 140] from Ford City to Crystal City to be tempered and turned into Herculite. When you tempered it and turned it into Herculite tell us briefly what is that operation?

Mr. Buchanan: Objected to as incompetent.

Trial Examiner Dudley: It seems to me that is hypothetical. He doesn't know of any such glass having been shipped, so the treatment if it had been shipped would be hypothetical.

By Mr. Holmes:

Q. Did you ship glass from Ford City to Crystal City?

A. I don't know, and to make you feel that I am perfectly sincere in my answer, glass is a product that can be manufactured and put into stock day after day, and what becomes of it is a matter of cutting it down and shipping it out as wanted. I never see an order. I know when orders are more than our production, and I know very well when they are less than our production, but I do not see the orders, and the Sales Department has charge of the shipping of the material from the grinding and polishing department, and they direct what is to be done with it. If they order this shipment from Crystal City I don't know.

Q. But they could do it?

A. Oh, they could. That would be possible.

Q. And what do you mean by tempering glass?

A. The heat treatment of glass which makes it very hard to a blow, causes it to withstand a blow that ordinary glass [fol. 141] would not withstand.

Q. I suppose this is a trade name, Herculite?

A. Herculite is tempered glass.

Q. Will you just in a brief way explain what Herculite is?

Trial Examiner Dudley: How do you spell that?

The Witness: H-e-r-c-u-l-i-t-e. The process consists of heating a finished piece of plate glass in an electric furnace and when it reaches a temperature so that the surfaces are just beginning to be tacky or soft, it is suddenly taken from the furnace and put between two blasts of air. That chills the surface and in the subsequent cooling down the surface comes under a terrific pressure while the center comes under a terrific tension, thereby strengthening it to a blow. If it is fractured so that the individual surface is cut on

a line, it would fly into a thousand pieces. It goes off almost into an explosion.

Q. And what is that finished product used for?

A. It is used for places where they want a light of glass that will stand sudden temperature shocks or increased strength. In Europe it is being used for automobile safety glass. In England for automobile safety glass in all respects except the windshield.

Q. I think that is all at this time, Mr. Clause. Thank you very much. The other side may wish to cross-examine.

[fol. 142] Cross-examination.

By Mr. Buchanan:

Q. Mr. Clause, when did your Company acquire this plant at Crystal City?

A. I think the plant was acquired in 1895.

Q. How long had it been in operation at that time?

A. Since 1870, I think that plant was started in 1870.

Q. Are any raw materials manufactured at Crystal City, obtained by it from other plants?

A. May I ask you to state your question again?

Q. Are there any raw materials used in the manufacture at Crystal City obtained from the other plants of your company?

A. Soda ash is acquired from our Columbia Chemical Division.

Q. Is any raw material other than soda ash taken from the stock in any other plant?

A. I don't believe so. I don't know of any.

Q. Doesn't the plant Management at Crystal City operate a sand mine in the vicinity of the plant?

A. Yes, sir.

Q. Is there such a mine in the vicinity of any other plant of your company?

A. Not of that quality of sand.

Q. Does your company own any other sand plants?

A. None operating.

Q. In the normal course of operations at Crystal City, does the plant fabricate material for shipment to other [fol. 143] plants for further fabrication?

A. No, sir, not in general.

Q. Does the plant in the normal course of its operations receive unfinished or party fabricated material from other plants for the completion of fabrication at Crystal City?

A. Not in the normal operation of the plant.

Q. Have there been any shipments of material to your knowledge within the last six months from one plant into Crystal City for further fabrication, or from Crystal City to any other plant for further fabrication?

A. I don't know of any.

Q. What about the employees at Crystal City? Are they permanent employees of the plant there?

A. You are referring to the matter of turn-over?

Q. No, I am referring to the question of whether there is any interchange of employees between the Crystal City plant and any of the other plants. I refer to the production employees.

A. We haven't transferred any employees from Crystal City for many years.

Q. Is the same true of maintenance employees?

A. Yes, sir.

Q. In whose charge is the plant at Crystal City?

A. Mr. George W. Oakes.

Q. What is his position?

[fol. 144] A. Superintendent.

Q. In the matter of working conditions of employees, to whom does the company look for decisions so far as the Crystal City employees are concerned?

A. To Mr. Oakes and his organization.

Q. Are such matters referred to you?

A. Seldom.

Q. Do you make any window glass at Crystal City?

A. No, sir.

Q. What kind of glass do you make?

A. We make only polished plate glass.

Q. Do you make safety glass?

A. We make polished plate glass in three thicknesses, and in perhaps two or three shades in addition to the standard clear plate glass. Then we have a fabricating plant for the manufacture of safety glass. We have from time to time made mirrors there. At the present time they are not making mirrors.

Q. Is the glass manufactured by the same process at Crystal City as at your other plants?

A. Yes, we have one tank similar to that employed at Creighton, and we have one tank which is recently acquired from the Pilkington Company of England which is a patented process.

Q. Do you use that patented process at any other of your [fol. 145] plants?

A. No, sir.

Q. In the operation, according to that patented process, is any peculiar skill required of any of the workmen?

A. Well, it requires its own private attention because of its own peculiarities. The operation, while similar in appearance to our own, is quite different to handle. It is not possible to walk away from this tank and let it run as it is with our own.

Q. Could you use employees from other plants if you wished to use them in fabricating according to the Pilkington process? Without the further training of those employees?

A. They would be very much at sea until they were broken in.

Q. Where is Crystal City?

A. About thirty-five miles south of St. Louis on the Mississippi River.

Q. I suppose you know how far that is from here?

A. About 635 miles.

Q. How close to Crystal City is your nearest plant that manufactures the same kind of glass that you manufacture at Crystal City?

A. Creighton. Ottawa, Illinois, that is the plant of the Libby-Owens-Ford Company.

Q. And your company's nearest plant?

[fol. 146] A. Ford City.

Q. Ford City is the nearest of your plants?

A. Yes.

Q. And where is Ford City.

A. Forty miles up the Allegheny River from Pittsburgh.

Q. So if my arithmetic is right, it is 675 miles from Ford City, the nearest plant of your company making the same kind of glass, is that right?

A. Yes, sir.

Q. Coming to the history of representation, in negotiating the contracts referred to by Mr. Holmes in your Direct Examination, I wish you would tell us whether the employees of the plants have representatives of their several

plant employees present participating in the negotiations?

A. They were represented by from one to three men from each plant at these various conferences.

Q. Did these men speak for the plants from which they came?

A. They had plenty to say at times.

Trial Examiner Dudley: May I interrupt? Do you mean the workers or the Management?

The Witness:

A. Representing the workers.

By Mr. Buchanan:

Q. Did you ever have plant superintendents and other representatives of the Management of the different plants to participate in the negotiations?

A. Yes, sir.

[fol. 147] Q. In the matter of working conditions, are those handled separately at the separate plants?

A. Yes, sir.

Q. What about employment? Is there a separate employment at each separate plant for that plant?

A. Yes, sir.

Q. What about the discharge of employees? Who handles that?

A. That is entirely under the jurisdiction of the superintendent of each plant.

Q. What about sanitary facilities and safety devices?

A. All those matters come through recommendations from the superintendents that are brought out at the meetings of the Safety Committee and the examination of the reports forwarded to the General Office. All routine safety and sanitary matters are handled locally.

Q. Do you handle the matter of variations as to working hours under peculiar conditions separately at the separate plants?

A. Yes, sir.

Q. Who has charge of handling such matters for the Company?

A. The Superintendent.

Q. He is superintendent of his own particular plant?

A. Yes, sir.

Q. With whom does he deal in such matters?

A. With the representatives of his own plant, represen-
[fol. 148] tatives of the Federation.

Q. Where the Federation is in the majority, a representative of the Federation?

A. Yes, sir.

Q. Where the Federation is not in the majority, does the superintendent recognize it as the proper authority to take up such matters?

A. He does not.

Q. What about grievances? How are they handled?

A. Well, the contract with the Federation gives an outline of how grievances are handled, starting with a man and his foreman, working on up throughout the supervisory force, and it is our desire insofar as possible that all those be settled locally.

Q. Do you have to handle grievances in Pittsburgh, for Crystal City, for instance?

A. No, sir.

Q. They are handled out there?

A. Yes, sir.

Q. Do you have any men at the different plants who handle questions of personnel other than the superintendent?

A. Well, we look upon our superintendent as our personnel director.

Q. What about employment?

A. We have an employment man at each plant, an em-
[fol. 149] ployment department, the head of that department.

Q. What about direction of safety? Is there a man at each plant for that purpose?

A. Yes, sir.

Q. If a matter of seniority, if an employee should be transferred from one plant to another, would he lose his seniority status?

A. Yes, sir.

Q. Is seniority determined on the length of time at the plant in which he is employed?

A. More particularly the department.

Q. In the department of the plant in which he is employed?

A. Yes, sir.

Q. Are you acquainted with the community at Crystal City?

A. Very well, sir.

Q. What kind of a community do you have at Crystal City and the vicinity?

A. Well, it is an agricultural country with scattered farms.

Q. Are the people there of similar habits to those at Ford City and Creighton?

A. No, I would say it is very much more of a farming section than Ford City and Creighton, very much farther removed from the influences of the City, although it is not so far away from St. Louis.

Q. What is the population of Crystal City?

[fol. 150] A. Crystal City and Festus run together. When you speak of Crystal City you really are thinking of the community of Crystal City and Festus. I think there are perhaps nine or ten thousand people in that center.

Q. Are Ford City and Creighton,— perhaps we are not so familiar with them as we are with Pittsburgh,— are they located in an agricultural community?

A. I would say they are located in an industrial section.

Q. They are both on the banks of the Allegheny River, are they not?

A. Yes, sir.

Q. How far is Creighton from Pittsburgh?

A. Twenty or twenty-two miles.

Q. And Ford City, I think you said, is——

A. Forty miles.

Q. Do they come within the Pittsburgh industrial area?

A. Well, certainly Creighton does. I don't know whether you can class Ford City under the Pittsburgh industrial area or not.

Q. Is the turn-over of employees at Crystal City as rapid as that at Ford City and Creighton?

A. Well, we don't have any turn-over any place any more, so that I cannot answer that question.

Q. Well, what about the length of time of employment of the men at Crystal City? How long have they been work-

[fol. 151] ing for your Company as compared with the men at Ford City, which as you say is the nearest plant making the same kind of glass?

A. Well, I wouldn't know without actually seeing the records, but the locality of Crystal City, of course, has been

a glass center since it was started away back in 1870, I think I said that plant was started.

Q. Keep your voice up, please.

A. I haven't much voice to keep up, sir, I am tired, — and it has been a glass community ever since that time. Many of the employees have worked there their lives, and died there, and now we employ the sons and grandsons of those early glass people. A very large majority of the people who are working, — I don't know that I should say a majority, — but a very large number of the people working in the plant at Crystal City have been born and bred there and educated there.

Q. Are they mostly native Americans?

A. They are largely native Americans.

Q. Are there good educational facilities and public schools there?

A. Yes, sir, they have grade schools and they have a high school which has a very high rating in the State of Missouri.

Q. Are they mostly graduates of schools, high schools?

A. We have a great many graduates of the high school, and graduates of college, in fact, employed by our plant.

Q. That is all.

[fol. 152] By Mr. Hoffmeister:

Q. Mr. Clause, you have explained about some of the other plants. Does this Crystal City plant, Plant No. 9 of Crystal City, have any other distinguishing features that you have not told us about that the other plants do not have?

A. May I ask what you mean by distinctive?

Q. Well, I mean what kind of product is made there particularly?

A. Well, we make, as I think I explained, safety glass there which is made from plate glass.

Q. You told us about some kind of machine that you have there. Do any of the plants other than Crystal City plant have that kind of machine?

A. No, sir.

Q. Are there any other features like that that are distinctive or peculiar to the Crystal City plant that you do not have at any other plant that you can think of?

A. Well, I don't think of any at the moment.

Q. Do you ever recall at any time the Federation of Flat Glass Workers had a majority of employees at your plant at Crystal City?

A. No, sir.

Q. Did they ever tell you that they had a majority of the employees at the Crystal City plant?

A. No, sir.

[fol. 153] Q. This plant is so distinctive in itself that you can close all your other plants today and still operate the plant at Crystal City without the assistance of any other plant. Is that correct?

A. Yes, sir.

Q. Do you know the people well enough in Crystal City to describe their sort of conditions there, their living conditions?

A. Well, I think I do. I have spent a good deal of time in Crystal City in years back.

Q. Can you tell us about some of the people down there as a community?

A. Well, it is a distinct community, cut off from the outside world, operates as one. They have their own social activities; the people of the plant of course are the sole people in the town except the bakers and the small shop keepers, garage owners and things of that sort; practically no other industry in the community.

In Festus I think there is now a shoe factory and a wicker furniture factory employing a relatively few people, but the community on the whole is supported by the operation of Pittsburgh Plate Glass Company, and the town is their own; they have to make their own amusements, so to speak.

Q. Now, compared to the employees in your other plants, will you say that they are more intelligent or how do they [fol. 154] compare with reference to intelligence?

A. Well, I would say that they are very much more intelligent, the average of the Crystal City people is very much higher in intelligence than any other of our plants.

Q. And they believe in educating their children, do they?

A. Very much so. The schools there are constantly growing.

Q. The problems that are presented at the plant in Crystal City are presented to Mr. Oakes, is that correct?

A. That is correct.

Q. And he has full authority to solve those problems?

A. That is right.

Q. Do you recall that you ever had any very difficult problems about your Crystal City plant?

A. No, sir.

Q. Did Mr. Oakes ever have to call on Pittsburgh to assist him in the solution of those problems?

A. No, sir.

Q. And at the time when you started dealing with the Crystal City Glass Workers' Union, as an organization, as you said a moment ago, you were negotiating a contract with them at the time certain charges were filed at Crystal City?

A. That is correct.

Q. Do you know whether they had a majority of the employees of the Crystal City plant at that time?

A. You are speaking now of the Crystal City Glass [fol. 155] Workers' Union?

Q. Yes, sir.

A. I have every reason to believe that they have a majority.

Q. Are you familiar with the men who are members of the Crystal City Glass Workers' Union, particularly the officers?

A. Yes, sir.

Q. You knew them?

A. Yes, sir.

Q. And you were ready to deal with them as a bargaining agent at the time these charges were filed?

A. Yes, sir.

Q. And you were in the process of dealing with them at that time as a bargaining agent through the means of executing a contract?

A. Yes, sir.

Q. I think that is all.

Recross-examination.

By Mr. Buchanan:

Q. Do you pay just as good wages in Crystal City for corresponding work as in other plants?

A. Yes, sir.

Q. Do the employees there have just as short hours and the same amount of pay as the other plants?

A. I think they do.

Q. Do they have as good working conditions there as at the other plants?

[fol. 156] A. Yes, sir.

Redirect examination.

By Mr. Holmes:

Q. I have two or three more questions on Direct. Under cross examination you said that at Crystal City it was the custom to refer the complaints to Mr. Oakes, the general superintendent.

Trial Examiner Dudley: May I inquire how you spell his name?

Mr. Holmes: O-a-k-e-s.

Q. It is the general rule, is it not, that that system is followed out in all of the plants?

A. Yes, sir.

Q. Sure. Then you do not make any exception of Crystal City than you do to any other plant, do you?

A. Not in that respect.

Q. Now, in these local problems that come up, for instance a complaint, Mr. Oakes handles it as far as he can and then you and Mr. Keightley and the main office up here take a hand in it?

A. We haven't had occasion to do it.

Q. Well, you have done it, the bargaining in the years?

A. That was not a matter of complaint. You are speaking of complaints.

Q. They had some complaints on the carrying out of this contract, didn't they, at different times? Didn't they refer [fol. 157] them to the local superintendent and they couldn't agree, and then you have to bring them up to your office?

A. What contracts are you referring to now?

Q. That is the contracts of these dates.

A. You are over in the Federation now. You jumped from Crystal City.

Q. I jumped from Crystal City. You had a little argument down here at Ford City, didn't you.

A. Oh, yes, I don't deny that.

Q. And they couldn't settle it there at the local plant, and then when they couldn't settle it there, they brought it up to your office?

A. Yes, sir.

Q. And then you settled it with the organization?

A. Settled it with Mr. Fuller.

Q. Well now, if the representative couldn't straighten out the difference, the policy of youf company is that if they can't settle it locally, they bring it up to your office. They don't have final jurisdiction down there?

A. That is right.

Q. And they are only acting on your general orders and instructions, is that right?

A. That is right.

Q. You were talking about this Pilkington machine, is that right,—that must be German.

[fol. 158] A. It is very much English.

Q. Well, it sounds like German to me, and I am neither one. This Pilkington patent that you referred to that you are using down at Crystal City, that it takes trained operators to work on that particular manufacture or production of that particular kind of glass,—now, you use that patent at Henryetta, Oklahoma, don't you? You make the same kind of stuff out there, don't you?

A. No, sir.

Q. At Creighton?

A. No, sir, we use a different process.

Q. Well, you have used them at other plants, this same process, have you not?

A. Are you speaking of window glass? Window glass is a different operation from plate.

Q. Haven't you made plate glass out in Henryetta?

A. No, sir.

Q. Well, you use the same patents out there, don't you?

A. No, sir.

Q. Not the same process, but the same patents for making their products, don't you?

A. No, sir.

Q. You don't do that?

A. No, the window glass operations are quite different from plate in the process.

[fol. 159] Q. Let me ask you this, maybe it is my failure to ask a proper question,—do you use their patents for manufacture in any other plant?

A. No, sir.

Q. That is the only plant in which you use the Pilkington process for making plate glass?

A. Yes, sir.

Q. Have you ever used that at any oth-r plant?

A. No, sir.

Q. Then I am all wrong. We were speaking about employment officers. How long have you had employment officers at the different plants that you use to settle employment matters at all different plants?

A. I couldn't answer that question. It has been so many years back.

Q. Well, you installed them within the last three or four years, have you not?

A. No, sir.

Q. Did you have employment officers at all the plants during the time that you have been associated with the company?

A. That is twenty-five years. That——

Q. That is a good long time.

A. I wouldn't say we had employment officers twenty-five years ago, not as we have them today.

Q. Would you say the last ten years?

[fol. 160] A. Oh, yes, sir.

Q. Well now, speaking about this wonderful community down at Crystal City, this higher intelligence test that has been applied to that particular community, in Mount Vernon, Ohio they make window glass down there, don't they?

A. Yes, sir.

Q. And about how many employees do you have there when you are running full force?

A. About three hundred fifty or four hundred.

Q. Well now, Mount Vernon is located in an agricultural district, is it not?

A. Yes, sir.

Q. And it is not so close to Columbus, Ohio that it is contaminated in any way, is it?

A. That isn't much of a compliment to Columbus, is it?

Q. Well now, insofar as the general test of intelligence that you might apply to workmen in your organization how would the Crystal City employees compare with the Mount Vernon employees?

A. Well, I will have to admit I know Crystal City much better than I know the Mount Vernon organization. I have spent many more weeks and many more days there.

Q. Well, as far as you know then, Mount Vernon, Ohio might be just as good as even down in Crystal City, Missouri?

A. It might be.

Q. Well now, Henryetta, Oklahoma, about how many em-
[fol. 161] ployees do you have out there?

A. About the same number as at Mount Vernon when the plant is running.

Q. Well now, that is out in the wide open spaces, too, is it not?

A. Yes, sir.

Q. And instead of being on the banks of the river it is out there in the sand, you might say, or the dust? Which is it? Do they have sand there or just common, ordinary black dust?

A. You say do they?

Q. Do they or don't they?

A. We don't produce any sand there.

Q. I mean insofar as the surrounding country is concerned, is it sandy or is it dusty?

A. It looks like an uncultivated agricultural neighborhood.

Q. Like an uncultivated agricultural neighborhood?

A. Yes, sir.

Q. What kind of folks are they out there? Are they original Americans or imported Americans, or what are they?

A. Well, I don't suppose we have,—I wouldn't take this as law, but I don't suppose we have in our employ in that plant one employ- who is a son,—well, it couldn't be,—we have only been operating that plant twelve or fifteen years, so we have a relatively new organization out there picked up from men from the coal mines. A lot of these men were
[fol. 162] earlier coal miners.

Q. Now, as to the intelligence, you wouldn't say that their intelligence was any more or any less than any other employee, would you?

A. Yes, sir, I would say it is decidedly less than some of the others.

Q. Decidedly less up there?

A. Yes.

Mr. Buchanan: Don't you want this off the record?

Mr. Holmes: I just wanted to find out how that was.

The time is now past the lunch hour, 12:30 o'clock.

Trial Examiner Dudley: I now announce an adjournment for lunch at this time to reconvene in this room at 1:45 P. M.

(Whereupon, at 12:35 o'clock P. M., a recess was taken until 1:45 o'clock P. M., this day).

[fol. 163] After Recess

(The hearing was resumed at 1:45 o'clock P. M. pursuant to adjournment).

Trial Examiner Dudley: I will call the hearing to order. You may proceed Mr. Holmes.

Mr. Robert L. Clause resumes the stand.

Re-direct examination:

Mr. Holmes: Will you mark this, Mr. Reporter, for the purpose of identification as Petitioner's Exhibit No. 1, this as Petitioner's Exhibit No. 2 and this as Petitioner's Exhibit No. 3 and this as Petitioner's Exhibit No. 4.

(Whereupon the documents referred to were marked Petitioner's Exhibits Nos. 1, 2, 3 and 4 for identification.)

By Mr. Holmes:

Q. Mr. Clause, in the beginning of your testimony we talked something about this first agreement that the company had with the Union—with the Federation of Flat Glass Workers of America, with respect to the agreement covering wages and the working rules for your various plants insofar as it affected the employees and members of this particular organization?

A. Yes.

Q. I might hand you at this time for your examination paper marked Petitioner's Exhibit No. 1, and ask you if that is about the agreement that you understood it to have been executed or entered into at that particular time?

Trial Examiner Dudley: What time was this, Mr. Holmes?

[fol. 164] Mr. Holmes: In 1934.

By Mr. Holmes:

Q. In other words, was that the first working agreement which you had with the Union, or was it not?

A. I think so, yes, sir.

Q. And that agreement consisted of letters from the Union and your replies on behalf of the company; is that not true?

A. Yes, sir.

Q. And that constituted the agreement between the parties with respect to the wages and working conditions for that particular period; is that right?

A. Yes, sir.

Q. And in that particular agreement, in this clause which is marked——

Trial Examiner Dudley: Doesn't the agreement speak for itself?

Mr. Holmes: That's right. I think it does.

By Mr. Holmes:

Q. Now, I hand you Petitioner's Exhibit No. 2 and I will ask you what that is, if you know?

A. Well, I judge this is the agreement that resulted from the conference between the Pittsburgh Plate Glass Company and the Federation of Flat Glass Workers of America.

Q. Well, examine it and see if it is the agreement?

A. I think you are correct, sir.

Q. And where was that agreement entered into, that is with respect to the location? Where was that agreement [fol. 165] negotiated, or where was it consummated?

A. I think this was done in Pittsburgh.

Q. That's right. And that constituted the working arrangement between the Union and the Company until the next agreement was signed in 1935; is that true?

A. This one is marked in 1935.

Q. That first one is for 1934-1935, or for 1935?

A. Yes, sir, it reads "This shall be in full force until November 1, 1935 and thereafter until notice of cancellation is given in writing fifteen days prior to the termination date by either party.

Q. I will hand you Petitioner's Exhibit No. 3 and ask you what that is, if you know. The execution date there of November 26th, 1935; is that the agreement that was

entered into which replaced the other agreement of 1935, being Petitioner's Exhibit No. 2?

A. Yes, sir.

Q. In other words, that contract was entered into at the expiration of the other contract?

A. Yes, sir.

Q. And it is signed by you on behalf of the Pittsburgh Plate Glass Company?

A. Yes, sir.

Q. And those negotiations also took place in Pittsburgh, did they not?

[fol. 166] A. I think so, yes, sir.

Q. And the contract was signed here at the central office, is that right?

A. Yes, sir.

Q. I hand you Petitioner's Exhibit No. 4 and I will ask you what that is?

A. This is the contract between the Federation and the Pittsburgh Plate Glass Company which is still in existence today.

Q. Which was entered into on what date?

A. 1937, February sometime, as I remember.

Q. And that contract also was negotiated in Pittsburgh?

A. Yes, sir.

Q. And it is in force now by agreement that the conditions and the terms of that contract should continue until what date?

A. Until terminated by either side fifteen days prior to the expiration date of this agreement, which would be February 1st of any year.

Q. Well, now, as we have those contracts, of course they speak for themselves, but for the purpose of the record the various plants that are involved in these contracts are all of your plants except the Crystal City Plant, is that right?

A. The last one specifically states that.

Q. Well, before that, nothing was stated about that, was it?

[fol. 167] A. Nothing said on either side about it.

Q. During the time of the discussions of the last contract, what was said, if anything, in those conferences about Crystal City, why it was not to be included?

A. Because the Federation didn't represent the organization there. There were no representatives from Crystal City at the conference.

Q. Well, didn't they have representatives of the Union that was representing the members of the Union, who were your employees at Crystal City?

A. No, sir.

Q. Well, now, there were other members, that is from the general offices there, was there not, representing Crystal City.

A. No, sir.

Q. Wasn't there anything said about Crystal City out there?

A. The original contract that was handed us by the Federation in the outstart included Crystal City in their statement of the plants it was to cover, that we returned the contracts which excluded Crystal City.

Q. In other words, the exclusion then was the idea of the company; is that right?

A. I think so.

Q. Rather than the Union itself?

A. That is right.

[fol. 168] Q. But the company did know that the Union did have members in your employ, members of the Union at Crystal City; you knew that?

A. Will you state that question again?

(Reporter read the previous question)

A. No, I didn't know.

Q. Didn't they inform you of that fact, that during the various meetings and discussions, what they had, as to whether or not Crystal City should be included?

A. They may have said, "We have some members there", but they had no proof of it.

Q. When you say they had no proof of it, what do you mean by that?

A. I mean they gave us no proof of it.

Q. What kind of proof did you require?

A. We required some proof; I think we were justified in asking signatures on membership cards.

Q. In your testimony on Cross-examination by Mr. Buchanan, you testified that the Crystal City Plant was just a little different from the other plants. Now, can you state wherein it differs in that you would not be able to do the same thing at any of your other plants where they made glass? Can't you do the same thing at the other plants that you do at Crystal City?

A. No, at Ford City we don't make safety glass, and we [fol. 169] don't mine sand at Ford City. We cannot make store front glass at Creighton, large sized glass.

Q. But you do have other plants that you could do the same thing that you do at Crystal City, do you not?

A. If you combined all the rest of them, you could.

Q. When you say that you fabricate glass at Crystal City, that is, you send window glass from other plants into Crystal City to be fabricated; is that right?

A. We have never done it.

Q. You never did?

A. No.

Q. Have you ever sent flat glass from some of your other plants to be fabricated at Crystal City?

A. I don't think we have ever sent any thin flat glass out there to be made into safety glass; they always manufacture their own.

Q. To your knowledge then, you have not shipped either finished or unfinished products from other points to Crystal City to be finished and there shipped out?

A. I think it would be too broad a statement to definitely say that, but as a practice, it is not done.

Q. Well, if it should be done, how is that brought about? Who would control that? Who would direct that particular activity?

A. The Sales Department.

[fol. 170] Mr. Buchanan: Objected to. It is based on a hypothesis contrary to the evidence.

Trial Examiner Dudley: I will sustain the objection.

Mr. Holmes: Mr. Reporter, will you mark this as Petitioner's Exhibit No. 5 for identification?

(Whereupon the document referred to was marked Petitioner's Exhibit No. 5 for identification).

By Mr. Holmes:

Q. I am handing to you Petitioner's Exhibit No. 5 and asking you what that is, if you know?

A. This is a statement that the company had prepared at the time of our strike.

Q. Where was that statement prepared?

A. In the Pittsburgh Office.

Q. In the Pittsburgh Office. And to whom was it sent, if you know?

A. To whom was it sent?

Q. Yes.

A. It was supposed to reach the employees of our plants that were closed down.

Q. Was it sent to the employees of all plants?

A. I cannot answer whether it was sent to all employees or whether it was a statement that was in the paper, or just how it was sent, but the purpose of it was to put in the hands of our employees Union or Non-Union at that time, the facts that caused the strike.

[fol. 171] Q. Who in your organization of the company was responsible for the preparation and the getting out of this communication?

A. I was.

Q. You?

A. With the approval of our President.

Trial Examiner Dudley: Are you offering any exhibits, Mr. Holmes?

Mr. Holmes: I wish to offer Petitioner's Exhibits Nos. 1 to 5 inclusive.

Trial Examiner Dudley: Is there any objection?

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection on the part of the Crystal City Glass Workers Union.

Trial Examiner Dudley: May I see the Petition filed?

There being no objection, I will admit Petitioner's Exhibits Nos. 1 to 5, as offered.

(Whereupon the documents referred to heretofore, marked for identification as Petitioner's Exhibits Nos. 1, 2, 3, 4 and 5, were received in evidence).

Mr. Helmes: You may cross-examine.

Cross-examination.

By Mr. Buchanan:

Q. Mr. Clause, I call your attention to a sentence at the bottom of the first page of the Petitioner's Exhibit No. 5 reading as follows: "A conference was halted almost immediately by the Union officials because the company would

[fol. 172] not agree to include in the new agreement the employees of another division of the company, who were working under an agreement that does not expire until April 8th, 1937." What was that division of the company?

A. That referred to the Columbia Chemical division, to their main plant at Barberton, Ohio.

Q. Was there any claims made at this time that the division should cover the employees at Crystal City, Missouri?

A. No, sir.

Q. At the time of the negotiation of the agreements which have been identified as Petitioner's Exhibits Nos. 1, 2 and 3, that is from November, 1934 to November, 1935, was the plant at Crystal City represented by any employees in the negotiations of those claims?

A. No, sir.

Q. Had the Federation of Flat Glass Workers up to November, 1935, claimed to have any local union at Crystal City, Missouri?

A. No, sir.

Q. When did you first hear of a union at Crystal City, Missouri, in the Federation of Flat Glass Workers?

A. I believe it was in April of this year that Mr. Fuller came to see me at the office. Mr. Fuller, the provisional president of the Federation of Flat Glass Workers, on a matter that pertained to Ford City, and while there he referred to the organization they had at Crystal City. To be [fol. 173] perfectly fair with him, I told him that we were at that moment negotiating an agreement with the Crystal City Glass Workers Union, and he remarked that their organization claimed a majority. I said, "There can't be two majorities; we have plenty of proof that the Crystal City Glass Workers Union has a majority, and we are treating them in the same manner that we treated the Federation of Flat Glass Workers Union by groups at our plants in the early stages, so that he couldn't criticize us for that. He asked that we break off negotiations and gave certain reasons why he wished we would, and assured me that if we would he would not come around to see me about an agreement for Crystal City until he did have a majority there. He asked me to consider his suggestion and I did, and I wired or wrote him after that that we were proceeding with our negotiations with the Crystal City Glass Workers Union, but that was the first time I heard an organization had been set up at Crystal City.

Q. At the time of the negotiation of the agreement identified as Petitioner's Exhibit No. 4, executed in January of 1937, which agreement lists the plants covered by the agreement, was anything said about a desire on the part of the Union to have the Crystal City Plant included?

A. Yes, sir.

Q. Was that request acceded to or refused by the company?

A. Refused by the company.

[fol. 174] Q. I call your attention to the signature of employees' representatives to that agreement. Are any of those men employees at Crystal City?

A. No, sir.

Q. There seems to be some uncertainty on the part of my colleague as to whether I asked you whether any of the signatories on the part of the employees on any of the agreements, Petitioner's Exhibits Nos. 1 to 4 was an employee of your company at Crystal City?

A. No, there was not.

Q. None was an employee?

A. No, sir.

Q. That is all.

Mr. Hoffmeister: That is all.

Recross-examination.

By Mr. Kleeb:

Q. Mr. Clause, I understand that you are Vice-President in charge of the glass manufacturing division of the company?

A. That is right, Mr. Kleeb.

Q. Does that include only the flat glass plants?

A. I don't get into the article field.

Q. Sir?

A. I don't get into the article field.

Q. I mean glass blocks, and things of that sort?

A. Glass blocks are not in my division.

Q. Your division is just flat glass?

[fol. 175] A. Yes, sir.

Q. Your office is in Pittsburgh, of course, is it not?

A. Yes, sir.

Q. How do you handle the matter of sales, that is orders, or obtaining of orders, or confirmation of contracts and the filling of orders? What is the method of handling that?

A. I have no connection with that whatever.

Q. Do you know how that is done?

A. I might know some details of the Sales Department, but if the information is essential I would advise that somebody connected with the Sales Department testify.

Q. Tell me this: How are orders *are* obtained? By salesmen or——

A. By salesmen or through our warehouses. We supply our own warehouses spread out over the country, as well as the competitive jobbers.

Q. Are these orders obtained and sent to the Pittsburgh office?

A. Yes, sir.

Q. And after approved, if that is a proper form, how are they distributed to the various producing plants? What is the determining factor?

A. The Sales Department will place them where less freight must be paid to get them there, or an equalization of freight, maybe, or according to which plant is best suited [fol. 176] to produce those orders.

Q. In other words, the geographic location of the customer may determine where the order is placed?

A. It may, yes, although not necessarily.

Q. Do you know whether or not there is any rule of thumb of how many orders go to Crystal City, how many orders go to Ford City, or how many orders go to Creighton?

A. There is none.

Q. Many factors are considered in the placing of the orders, is that right?

A. Yes, sir.

Q. Do you know whether or not orders are placed directly with the producing factory at any time?

A. I know they are not.

Q. They are not?

A. No, sir.

Q. Do you — whether or not any salesmen work directly out of the producing plants?

A. I know there are none.

Q. There are none?

A. No, sir.

Q. It is a fact, is it not, that the various products of the various flat glass plants are widely advertised?

A. Yes, sir.

Q. How is that advertisement controlled? That is, who [fol. 177] handles it and who places it?

A. Do you mean who places it, with what magazines, and so forth?

Q. Yes.

A. We have an Advertising Department.

Q. Located where?

A. Located in Pittsburgh with, I believe, branches at our Paint Division, Milwaukee, but the final determination of the advertising budget and program is decided here in Pittsburgh.

Q. Do you know whether or not a certain amount of money is yearly budgeted to these various production plants for their own use?

A. Will you ask that question again? I don't know what you mean by budget.

(The Reporter read the previous question.)

A. There is no such system in our set-up, if I understand your question.

Q. Well, is the expense of the various flat glass plants handled in Pittsburgh?

A. Is it what?

Q. Is it handled centrally in Pittsburgh?

A. No, the expense is incurred at the individual plant and goes into cost if it is an item of cost, or if it is an item of investment, it goes into investment.

[fol. 178] Q. Suppose the Crystal City Plant had an expenditure of several thousand dollars. Would the check for that expenditure be issued by the Pittsburgh Office, or the Crystal City plant?

A. If it is a large amount, it will probably be paid from Pittsburgh. If it is a small amount, it would probably be paid from Crystal City.

Q. Then a small amount is allocated to Crystal City.

A. I cannot agree to the small amount allocated to the local bank, and I cannot say who directs that, but I know that certain bills are paid locally and others are paid from the General Office.

Q. Is the local bank balance maintained through an arrangement with the central office in Pittsburgh?

A. I assume so. In other words, transfers must be made from some bank under the control of the Treasurer in the General Office to that bank.

Q. Does each flat glass plant have a purchasing agent at the site of the plant?

A. Did you say each or all?

Q. Do any?

A. Some Units won't warrant carrying a Purchase Agent, or some person who looks after purchasing. The purchases might be too small or too few in number, but at some of our plants we have a purchasing agent, or a man who calls himself a purchasing agent.

[fol. 179] Q. At which plants?

A. At Crystal City we have one. Local purchases are made at the other plants, but we don't have anybody that we call a Purchasing Agent.

Q. So that only at Crystal City do you have anybody that you call a Purchasing Agent?

A. I believe that is right.

Q. Well, are local purchases first approved by the central office?

A. No, sir.

Q. So that even the purchases made at other plants besides Crystal City are not made by a purchasing agent or do not have to meet with the approval of the Central office?

A. That is right.

Q. I will place a hypothetical question to you. If a Union in one of your plants reached an agreement with the Plant Manager in that plant, would you state whether that Plant Manager would have final authority to accept a contract embodying the meat of that understanding?

A. If they represented the majority of the people, yes.

Q. He would have that authority?

A. Yes.

Q. Well, is there any reason why that was not done with reference to the contract between the Flat Glass Workers and the Pittsburgh Plate Glass Company with reference to [fol. 180] all these other plants except Crystal City?

A. Yes, I think there is a reason, I think Mr. McCabe wanted to handle it as he did.

Q. Talking about the present contract?

A. I beg pardon. I thought you were talking about the old contract.

Q. Will you explain that again, please?

A. I say I think it was Mr. McCabe's desire to handle the matter of developing a contract through a general conference where we had representatives from the plants, where

his organization was represented by the Federation of Flat Glass Workers.

Q. And do I understand that the terms of such an agreement could be negotiated and settled and signed by the Local Manager without any consultation with the central office?

A. No, I don't think there would be. I think he would refer the matter to us for advice and consideration, just as we do any other problem in the operation of our plants.

Q. So that the labor relation in that plant would be submitted to the central office for discussion and approval just as other important problems are?

A. Yes, I would say that they are in the same range.

Q. To whom would they be referred in that process in the central office?

A. They would be referred to my office.

[fol. 181] Q. By your office, do you mean you personally?

A. They would probably come to me personally.

Q. For my own clarification, Mr. Clause, in your direct examination you made some mention of putting together two pieces of window glass to make safety glass; did you not?

A. I did.

Q. I am not certain whether it was developed where you do that?

A. We do that at Creighton, Pennsylvania, in the Duplate Department. As you have the set-up, we recognize the Duplate Department as a separate plant.

Q. So that at Creighton, Pennsylvania, you make safety glass and you make plate glass?

A. Yes, sir.

Q. Now, the plate glass operation, where does it get its window glass?

A. From one of the window glass plants.

Q. What did you say?

A. From one of the window glass plants.

Q. Any particular one, or any one of the three?

A. It has been shipped from all three.

Q. Does the Creighton Duplate Division or Safety Glass Division get its window glass from any other sources?

A. No, sir.

Q. Do the Cleveland plants service any other of your [fol. 182] plants besides the one at Creighton, Pennsylvania?

A. No, sir.

Q. Then the balance of the production is sold in the open market?

A. Yes, sir. I will make a correction—I think it is unimportant. A certain amount of window glass is sent to Ford City, which is sand blasted or chipped—it is a five and ten cent business.

Q. But not for the use of making safety glass?

A. No, sir.

Q. Then do I understand correctly that the Crystal City Safety Glass division does not use window glass to make its safety glass?

A. That is correct.

Q. Is there any reason for it?

A. No, we have elected not to produce laminated glass in the work.

Q. By that term do you mean the double plate with the insulation in between or the gelatine in between?

A. Yes.

Q. Do you make only the Herculite in Crystal City?

A. No, we make Duplate laminated, which is two pieces of plate glass with the plastic in between.

Q. As distinguished from two pieces of window glass?

A. Yes.

[fol. 183] Q. I notice that at Ford City you have two divisions really, one making plate glass and the other making carrara, structural glass and heavy plate. Briefly, what are those two divisions? What is the distinction?

A. They are two separate plants. We consider Works No. 4 at Ford City strictly a plate glass plant, making glass up to a quarter inch in thickness. The plant at Ford City known as Works No. 6 is especially constructed to handle this heavy glass. Of course, it requires a different sort of mix to make these colored glasses known as carrara, and the sizes demanded are not as large as in the plate glass for store front purposes and so forth, and it runs anywhere from three-eighths of an inch up to an inch and a quarter thickness. It may be ground and polished on one side, or it may be ground and polished on both sides, and requires special machinery because of its weight and length, the weight and annealing property, and so forth, to handle it.

Q. Is either the plate glass made at Creighton or Ford City and sent to Crystal City for it to make its Duplate safety glass?

A. No, sir, not the finished product. I think I have been saying we have never shipped any polished thin glass out to Crystal City to be laminated.

Q. Does the Duplate Division of the Creighton, Pennsylvania, plant make Duplate out of both window and plate glass?

[fol. 184] A. Yes.

Q. Is the plate glass that is used the plate glass which the other Works at Creighton makes?

A. Yes, sir.

Q. Does the Creighton, Pennsylvania, Duplate Division use plate glass made at Ford City?

A. They have.

Q. Well, you mean sometimes?

A. In general, I would say no. I would answer that question no, because I think just as it is safe to say we never shipped any polished thin glass out to Crystal City.

Q. If the production is not equal to the demand, then it is possible they might get some from Ford City?

A. They might, yes, sir.

Q. Under circumstances like that, is that what you mean?

A. Yes, sir.

Q. Do you use ordinarily the independent carriers to haul window glass from your window glass factories to the Creighton Duplate Division?

A. By carriers do you mean railroads?

A. Railroads and trucks?

A. Railroads and trucks.

Q. Do you have any of your own trucks that do such hauling?

A. No, sir.

Q. You have no Interstate carriers of your own?

[fol. 185] A. No, sir.

Q. Do the Plant Managers of each of these plants under your jurisdiction ever assemble, say in Pittsburgh, or assemble jointly at conferences with you to have discussed the labor policy of the company?

A. Yes, sir.

Q. Is that a regular thing, or is it especially called by you?

A. It is an especially called meeting prior to a conference for the termination of a contract, or something of that sort.

Q. That is all.

Cross-examination.

By Mr. Buchanan:

Q. One question. Is freight a considerable item in the cost of raw materials obtained by your plants?

A. Quite an item in some materials.

By Mr. Hoffmeister:

Q. Well, how does your Plant No. 9 at Crystal City compare with your other plants with reference to the number of employees employed?

A. If the plant is running full, it is as large a plant as we have, practically. I think the number of employees would be a few less with the Duplate Department running full and the Plate Glass Department running full and a full complement of our Plate Glass Plant at Creighton, the safety plant, but as far as the grinding and polishing department is concerned, it is identical with the equipment of [fol. 186] the Ford City Plant. The Crystal City Plant employs tanks in the production of its rough glass, whereas Ford City employs pots, and in that respect they are not similar, but as to the output they do make or can make an output that is entirely similar as to size.

Q. With reference to the number of employees, Plant No. 9 is about as large a plant as you have?

A. That is right.

Q. One other question with reference to the distribution of business to the plants. If you have an order, for instance, for a certain kind of glass that is manufactured at Crystal City Plant No. 9, irrespective of where that order comes from, that plant has to furnish that particular order, is that correct?

A. Will you repeat that, please?

(The Reporter read the previous question.)

By Mr. Hoffmeister:

Q. In other words, if it is a product of the Plant No. 9 at Crystal City, it doesn't make any difference what part of the United States you get that order from, you have to go to Crystal City for that order?

A. If Crystal City is making that product and the others are not, is that your question?

Q. Yes.

A. Yes.

Q. That is all.

Trial Examiner Dudley:

Q. May I ask a few questions, Mr. Clause? I am not [fol. 187] sure that I understand what products are turned out of the Crystal City Plant that are not turned out by your other plants, particularly your other plants at Ford City and Creighton?

A. Well, we don't as a practice. I wouldn't say because we have the one-eighth inch glass. In other words, we make one-eighth inch glass at Crystal City in great quantities which later is incorporated into laminated safety glass. That plant, as you have learned, -as a Safety Glass Department and does less commercial business. By commercial I mean the regular jobbing business, glass for store fronts and whatnot,—it does less of that business because of the safety glass plant there and the product is manufactured and passed through that department. Ford City makes no one-eighth inch glass except for some specialty work with some special packs of tint or color, and specializes on the mirror business and the general commercial business in three-sixteenths and quarter inch glass.

Q. Of the one-eighth inch glass at Crystal City, is there very much that is sold to the public?

A. Very little. I don't know as we make any shipments from Crystal City, other than to manufacturers of safety glass or persons who would use it as one-eighth inch glass.

Q. That is, you use the one-eighth inch glass to make your safety glass?

[fol. 188] A. That is right.

Q. Is the one-eighth inch glass the only glass that you can think of that is turned out at Crystal City that is not turned out elsewhere?

A. Of course, we manufacture one-eighth inch glass at Creighton also, as was brought out here in the testimony.

Q. So that the only respect in which the product at Crystal City differs from the product at Creighton and Ford City is that you do not make one-eighth inch glass at Ford City ordinarily?

A. That is right.

Q. May I ask about another point? I judge you have at Crystal City a sand deposit, a sand mine or something?

A. Yes, sir.

Q. Is that operated as a part of the plant at Crystal City?

A. Operated in connection with the plant, adjacent to the plant, not over half a mile air line.

Q. Do you have a separate mining department at Crystal City?

A. No, sir, no more so than we have a casting haul separate from the grinding and polishing. It is just one of the Departments of the plant.

Q. About how many employees are employed in connection with the mine at Crystal City?

[fol. 189] A. I am guessing somewhat now, but I think at the present time not more than forty or fifty men.

Q. Do you know what kind of duties they have?

A. In the mine?

Q. Yes.

A. I have been in the mines several times and seen the operations.

Q. What do they do?

Q. I might tell you a little bit about the deposit so that you will have a picture of it. There is a vein of sand thicker than the height of this room, and it is strictly a mine operation. There are entries driven in and pillars are left as in coal mining, but very much larger pillars, and the runs created off those entries are very much larger, and it is an operation similar to that in coal mines, except that you are not hampered by head room, where tracks are laid into these places and men are there drilling in a similar manner to a coal mine, and the material is shot and then picked up by electric shovels, which is possible due to the good head room that we have. This rock is of such a nature that when it is shot it virtually crumbles into sand and the sand is conveyed from the mine crushed and dried and that is about the operation.

Q. Could you describe for me the operations that go on inside the glass plant itself?

[fol. 190] A. Shall we take a pot plant or a tank plant?

Q. I am referring to Crystal City.

A. That is a tank plant. The last of the pot furnaces have been destroyed. Glass is made from sand, soda ash, limestone, salt cake, charcoal, common salt with arsenic. In the tank operation this batch after mixing is poured

into a furnace which is approximately twenty-five feet wide and one hundred feet long, or one hundred thirty feet long, and the melting end of the furnace is heated by fires from the regenerative furnaces underneath it. The melt takes place, the glass flows on down the tank and is refined and finally comes down through a temperature of 2100 degrees, at which temperature it is taken out. Without going into any details——

Q. Will you tell me roughly how it is refined?

A. How it is refined?

Q. Yes.

A. I wish I knew myself. Throughout the melting operation the glass boils quite violently, and when that boiling ceases the glass approaches a rather flat condition which we call plaining, and if it is maintained at a proper temperature, the last of the defects, such as beads and bubbles come out of it and the process from that point is reducing the temperature until it is at a workable temperature, when it leaves the tank and passes through rolls of one description [fol. 191] or another. I don't think we need go into a detailed description of how those machines work. After the glass is worked into a sheet as it passes through these rolls, it passes continuously on into a lehr.

Q. How do you spell that?

A. L-e-h-r, where it is brought from the temperature it has from the time of leaving the rolls down to approximately room temperature. That process is known as annealing and cooling or tempering and cooling. At the end of that lehr, the glass is cut into lengths of the desired size for the grinding and polishing operation which follows.

Q. The cutting, grinding and polishing is carried on likewise at Crystal City, is it?

A. Yes, sir.

Q. Will you go ahead and tell us how that is done then?

A. The modern grinding and polishing plant such as Crystal City consists of, has two lines of tables about eight hundred or nine hundred feet long. These individual tables, as we handle them, are approximately ten feet wide and twenty-four feet long. The glass is first laid on the tables at one of these lines and moved forward continuously under first grinding runners and then under polishing runners. After emerging from the polishing runners, the tables are disconnected. Do I make myself clear that these tables are all connected in one continuous mov-

ing band. The tables are disconnected and returned to [fol. 192] the original end of the plant. The glass is picked up, turned over and laid on similar tables past another grinding operation, the grinding and polishing machinery as described for the first line. This brings the glass down to the condition of having been ground and polished on two sides and passed on continuously from this double string of machines.

Q. Is the glass at that stage all of the same size and thickness?

A. If you are making one-eighth inch, it is all of the same thickness; if you are making three-sixteenths, it is all of the same thickness; if you are making quarter inch, it is all of the same thickness, but it need not all be the same rectangular dimensions. You can have plates less than ten by twelve feet, two to a table, but it is desirable to do that, and that is approximately how we run.

Q. You set the machines for the thickness that you want to run?

A. That is correct. This glass is not beyond the point of breaking, and in the process of grinding and polishing, you occasionally have breaks, which reduces the size of the piece.

Q. Then follow through from there. What further operations do you do at Crystal City?

A. They go through the polishing and inspection department where they are inspected for possible defects and [fol. 193] sent into stock in the largest possible sizes.

Q. Will you tell me again the sizes that you make there, the thickness?

A. The plates we run are ten feet four inches by twelve feet, or run up to eighteen or twenty feet in length, but always ten feet four inches wide. If you make a plate longer than twelve feet, it means that you have to lay a complete,— it is less than that.

Q. What thicknesses do you turn out at Crystal City?

A. One-eighth inch, three-sixteenth inch and quarter inch.

Cross-examination.

By Mr. Hoffmeister:

Q. You draw a very wide piece of glass at the Crystal City plant, do you not?

A. We do.

Q. Is that wider than you draw at any other plant?

A. Yes, it is; we draw a sheet from the tank at Crystal City that is ten feet four inches after the edges are trimmed off. At our Creighton Plant we draw a sheet that is seventy-four inches after the edges are trimmed off.

Q. That is the only plant that draws such a wide piece of glass?

A. Yes.

By Trial Examiner Dudley:

Q. Is your own operation that of making safety glass at Crystal City?

A. Yes, as far as fabrication of glass is concerned at [fol. 194] the present time.

Q. Will you describe for us carrying on the status from plate glass into safety glass?

A. As I previously said, a piece of laminated safety glass consists of two sheets of glass which have placed between them a sheet of plastic.

Q. A sheet of what?

A. A sheet of plastic. That covers a multitude of sins. It might be celluloid, it might be cellulose, nitrate, acetate, and it might be flexgum, so that to use the term plastic covers all of them. The operation of making those laminated sheets is one of cutting the glass, that's speaking of automobile work now,—of cutting the two pieces of plate glass to the desired pattern of the automobile people. The plastic sheet is cut to the same pattern, and after the three pieces have gone through a washing operation, where perhaps the entire surfaces of the two pieces of glass which envelop the plastic have been treated, they are laid up in sandwich form and given a preliminary pressing. If properly done, the three pieces of material will match accurately. The preliminary pressing doesn't much more than tack them together, and the final pressing follows, which is carried on in an autoclave.

By Trial Examiner Dudley:

Q. Carried on where?

A. In an autoclave, which is a tank containing a fluid, the fluid being subject to control of pressure and temperature. [fol. 195] These sandwiches of glass which have been preliminarily pressed, are submerged in this liquid within this

autoclave, confined by making the lid tight, and go through a temperature and pressure cycle, lasting a few minutes. When they emerge from this operation, they are safety glass in all senses of the word as far as resistance to breaking or giving the type of break that you expect to get from safety glass and are then edged as directed by the automobile people for use in a door light or window, or that sort of article. They are then ready for shipment.

Q. At Crystal City do you have skilled workers? Do you have employees for the different kinds of work in which they have special skill?

A. Yes.

Q. First, let me see how far that goes. Do you have them work that it would be say unusual for other men, that it would be difficult crafts or tradesmen?

A. We don't have so-called craft unions in any of our plants, other than the window glass plants, where the glass is cut by the Window Glass Cutters of America. That is the only so-called craft that we have. Of course, we employ at all of our plants plumbers, pipe fitters, electricians, and so forth, and they are perhaps trades as distinguished from crafts.

Q. At Crystal City will you tell me what skilled operations you have rather briefly? Are there a lot of them?

[fol. 196]

A. I should say so. That is quite a contract.

Q. Well, give me an idea, just roughly?

A. May I ask this question? Is Mr. Chandler going to be on the stand in connection with the payrolls?

Mr. Buchanan: Yes, he is available.

A. He can answer these questions of skilled a good bit better than I can.

Trial Examiner Dudley:

Q. All right.

A. Our average wages are eighty-six cents an hour. They average from sixty-three cents for labor up to over a dollar for the highest paid jobs. Now, that gives you a fair idea of skill, if wages mean anything in skill. But to sit down and describe the skill of the various people in the plants, we employ very little labor, very little sixty-three cents an — men and most of these people have skill in what they do.

Q. Returning to the operations, I take it from what you say that the work at the plate glass factory at Ford City and Creighton differs from that at Crystal City?

A. Ford City, that it employs pot furnaces for the operation of making rough glass in place of tanks.

Q. Does that merely mean smaller, or what?

A. Well, the pot furnace is quite similar in appearance to a steel furnace, and in place of a pool in which the steel is melted, we have a floor on it, on which we set as many as [fol. 197] twenty pots in two rows for the length of the furnace. The furnace goes through a cycle which corresponds to the cycles that the pack melting in the tank goes through, in passing from one end of the tank to another, and when the glass is finished, it is taken out pot by pot and cast through a special casting device which forms a plate that will make the net of ten feet four inches and can be cut into these small rectangular pieces twelve to eighteen feet in length. The operation at Ford City Works No. 4 is identical, you might say, to that described at the Works at No. 9, Crystal City.

Q. I didn't hear that.

A. I say, the operation from that point on at Works No. 4 Ford City, is identical with that described for Works No. 9 at Crystal City.

Q. How about Works No. 1 at Creighton?

A. I might add before I pass to Works No. 1, that the problem of making thin rough glass from pots, the casting device we employ is more difficult than that of producing an eighth inch rough glass for a grind and polish job product from the tank.

Q. How about the operations at Creighton?

A. As to the work at Creighton, it is tanks, and after an operation such as has already been described, the tank produces a sheet that is only seventy-four inches wide for [fol. 198] *for* the grinding and polishing units, of which there are two complete units handling glass that is only seventy-four inches wide. Normal plate at that plant is eleven feet in length, so the past several years we have made nothing but one-eighth inch glass at that plant. The grinding and polishing units are capable of handling heavier glass. The tanks are not what we would like to have them be for the production of glass that is heavier than one-eighth inch. The workers' situation is the same in all three plants approximately.

Q. Wages and working conditions and things like that are identical in all of the plants?

A. In principles, not in details.

Q. Well, is Creighton Plant No. 1 similar to Crystal City No. 9 for safety glass?

A. Yes, sir.

Q. Will you tell me what method of determination is used as to the amount of glass that Crystal City or Ford City or Creighton will turn out? Do you have a quota of work that they shall turn out, or glass that they should produce?

A. The capacity of the plants vary considerably, one making one thickness of glass, or another making another, but aside from that the Ford City plant and the Crystal City plant make the same quantity of material if operating on the same thickness of glass, requiring the same quality of products. The Creighton plant, if operated full, both units can make a little more than either of the other two [fol. 199] plants if they were operating on the thin product. Now, does that answer your question?

Q. Well, partially. What I had in mind is this, supposing that next month you estimate you are going to need a certain quantity of safety glass. How is the determination made as to how much of that will be made at Creighton and how much will be made at Crystal City?

A. We have tried to divide that quite equally over the years. At the present time we are making safety glass, employing window glass and sheet glass in place of plate on some of the products made at Creighton. In other words, instead of having two classes of plate glass, one made at Creighton and one at Crystal City, we have given the dual or safety glass to the Creighton Duplate Department. It is more economical to do it on account of the proximity to the market, the distance from Creighton to Detroit. They also manufacture at the same time certain of the requirements of the automobile manufacturers for duplate, which is safety glass made of plate glass, and they take care of all the so-called local business that we have, that is, the business of replacement of safety glass in cars, or safety glass in airplanes; in other words, because of their proximity to the general office, it is more convenient to have many of the miscellaneous products made at that plant, but the sum total made at that plant is about the same as that made [fol. 200] at Crystal City.

Q. Do you supply safety glass to automobile manufacturers in St. Louis?

A. I don't know of any automobile manufacturer in St. Louis.

Q. Ford and Chevrolet?

A. We supply Detroit.

Q. From where?

A. From Creighton and Crystal City, both.

Q. There is some testimony from you about strikes. I don't know how long. During that time I think you said these plants were shut down except the Crystal City plant; is that correct?

A. That is right.

Q. And during the time of the strike, did you fill orders from the Crystal City plant that you would normally have filled from the other plants?

A. Yes.

Q. And you found that you could successfully transfer the orders from Creighton and Ford City?

A. There is no difference in the kind of orders they work on. They may be working at times on the same pattern for the same automobile company.

Q. All you would do would be to wire Crystal City or Creighton?

A. Yes.

[fol. 201] Q. Can you tell me generally, and I will get it more in detail from the other witness that you mentioned, whether there is much difference in the type of work that the men themselves do, and you and I have just discussed it from the point of view of operation of the plant? Now, from the point of workmen, what difference is there in the danger involved? What difference is there in the likelihood of damaging the machinery?

A. Taking both plants and comparing any grinding and polishing units that are at Works No. 4, and the grinding and polishing Units at Works No. 9, there are about so many men employed for those operations. They are quite similar. You take two plants where men work in groups and you will find the management in one plant may differ in its division of the work in a gang from another plant, or if you leave the men alone in the gang to work out their own problems, they will divide it differently, but in the main, those things throughout the organization compare very closely.

Q. The biggest difference in the operation, as I get it offhand, is that between the use of tanks and pot furnaces?

A. Yes.

Q. Is there much difference in the work there from the point of view of the type of work involved?

A. Yes, there is quite a bit of difference.

Q. What is that?

A. The tank operation is about like a paper mill. When [fol. 202] it is going all right, there is nothing to do, but when it is going bad, it is terrible. The pot operation, as you realize, is an intermittent operation. The pots are melted, taken out and cast, twenty to a furnace, whereas the tank operation is one that lends itself to straight line flow operation, a feed of batch every so often without the use of a crane, and it comes out at the other end in a sheet.

Q. At Works No. 9, I believe the stipulation which we have in evidence indicates that about twenty per cent of the raw materials have been shipped in from places outside of Missouri. Do you know what kind of materials those are?

A. Well, soda ash would be one; salt cake that I referred to would probably be another,—I am not sure about sale cake—it might come from St. Louis. Where it came from before that, I don't know. Belt we use in quite large quantities; there is lumber would come from outside of the State, I feel quite sure. At Plants Nos. 1 and 4, which would be at Creighton and Ford City, the percentages are smaller, being eight per cent and also fourteen per cent at Ford City.

Q. What kind of materials are those?

A. The same kind of materials. It is just a question of where they might be purchased.

Q. I think that is all the questions I have.

Redirect examination.

By Mr. Holmes:

Q. Just one more question. You say the material shipped [fol. 203] in to Crystal City, you get your fuel from Louisiana, don't you?

A. Yes.

Q. And the sand is mined there at Crystal City?

A. Yes.

Q. And you ship that out to some of your other plants, don't you?

A. No.

Q. You don't do that?

A. No.

Q. You use that all right there?

A. The freight rate comes too big an item to roll sand around the country very far.

Q. You are speaking about the difference between a pot plant and a tank plant. You were speaking about the difference between a pot plant and a tank plant. Now, in a tank plant, where you are melting your glass in the tank and it goes through the different processes in the tank rather than in the pot, it cuts out quite a bit of labor, doesn't it?

A. Yes.

Q. That is the idea of the tank system over the pot system to eliminate some labor, isn't that true?

A. That is part of it. It is more desirable for this type of operation for a continuous flow of sheet.

Q. That is right.

[fol. 204] A. To get certain thickness requirements and so forth.

Q. But when it comes to making glass, insofar as the technique is concerned, it requires better men to operate a pot furnace than a tank furnace, isn't that true?

A. I wouldn't say that. I would ask if you had all your eggs in one basket where you would have your best result then.

Q. Well, the tank operation is more or less mechanical, isn't it? It is all set up there and it has to go through a certain process and if the tank is all right, the glass is coming out well, isn't that right?

A. I wish that were always so.

Q. Well, that is generally true?

A. Yes, if it is working beautifully, it is wonderful, while if it is working badly, it is terrible.

Q. Well, in the pot type of furnace, it depends on the knowledge of the workman operating that furnace as to the success of the product that finally comes out of the pot, isn't that right?

A. To a degree, but in the pot process, if you make a bad lot, you dump it out in the casting haul, and you get a fresh crack at it. If you made a mistake the last time, you can correct it. In the tank department, you can go on day after

day and you have to work around for quite awhile to find out what it might be.

Mr. Holmes: You may cross-examine.

[fol. 205] Cross-examination.

By Mr. Buchanan:

A: Is it not a fact that you dismantled the pot plant at Crystal City when you acquired the Pilkington patent at Crystal City?

A. Yes, sir.

Trial Examiner Dudley:

Q. At Creighton you use the tank process also?

A. Yes.

Q. Don't you use the Pilkington process at Creighton?

A. No, sir, we use what we call the Creighton process, and in our tanks at Crystal City, we have acquired the rights under the so-called Pilkington process.

Q. Is that substantially different from the point of view of the workers?

A. If you want to see it, a layman wouldn't think there was very much difference in the operation, but it isn't as easy to control the formation of the sheets, to our way of thinking. It has some drawbacks,—it has, we hope, some advantages, or we wouldn't have put money into it. We haven't demonstrated this completely yet.

Trial Examiner Dudley: Are there any more questions? That is all. Thank you very much, Mr. Clause.

(Witness excused.)

(Short recess).

Trial Examiner Dudley: I now call the hearing to [fol. 206] order.

Trial Examiner Dudley:

Q. Mr. Clause, I want to ask you a few questions about your jurisdiction. I believe you said you were Vice-President and Chairman of the Manufacturing Department?

A. Yes, sir.

Q. Will you tell us what that Department does as distinguished from other departments?

A. We have charge of the manufacture of all flat glass, and included in flat glass is our carrara glass plant Works No. 6 at Ford City.

Q. We have been talking today about the plants at Ford City, Crystal City, Creighton and Henryetta, Mt. Vernon and Clarksburg. Are all of those plants under your jurisdiction?

A. Yes, sir.

Q. And do you have any other plants or factories under your jurisdiction?

A. We have a small plant at Elwood, Indiana, which manufactures refractories.

Q. What do you mean by that?

A. Clay blocks and shapes used in the construction of tanks and furnaces.

Q. About how many men are employed there?

A. A maximum of forty, I think. At the present time, maybe twenty.

Q. And do you have a plant at Kokomo, Indiana?

[fol. 207] A. We have one there that is a small department manufacturing Pitco metal. It goes by the name of Pitco metal which goes into the glazing of store fronts or other construction, metal strip.

Q. Do you have any other plants under your supervision?

A. None that I can think of.

Q. About how many men are employed at Kokomo, Indiana?

A. Probably twenty-five there now.

Q. Is the work done at the Kokomo, Indiana, plant similar in any respect to the work done in the flat glass and safety glass plants?

A. No, sir.

Q. How about the work done in the refractory plant? Is there any similarity there?

A. We carry on the same kind of operation in Ford City where we have a pot house that makes not only pots for the furnaces that have been described this afternoon, but furnace blocks or any clay shapes that we might need in the building of a furnace.

Q. What was the name of this other city in Indiana where your refractory plant is located?

A. Elwood.

Q. Is it fair then to say that what we are talking about in this hearing is with reference to representation of the employees in your Department?

[fol. 208] A. May I hear that question again?

Q. This hearing, do you understand that it pertains roughly to the employees in your department?

A. Yes, sir.

Q. What other departments are there in the Pittsburgh Plate Glass Company?

A. There is the Commercial Department.

Q. Can you give me roughly what these departments do, as you name them?

A. Under the head of Commercial Department, the Company has sixty to seventy warehouses and stores which do a general jobbing business.

Q. Who is the head of that?

A. Mr. H. B. Higgins, Vice-President and Chairman of the Commercial Department.

Q. What other departments?

A. We have the Chemical Division, which manufactures heavy chemicals and cement. Their main plant is at Barberton, Ohio. The Cement plant is at Fultonham, Ohio. That is under the head of Mr. Hugh Galt, Vice-President. We have a Paint Division with offices at Milwaukee, where they have one plant. They also have a plant at Newark, New Jersey, and they supervise the operation of two other plants, one known as the Ditzler Color Company, located at Detroit, and the other, the Thresher Varnish Company at Dayton, which Division is under the supervision of [fol. 209] Mr. Emmett Griffin.

Q. Are there any more Divisions?

A. Our brush division has a plant at Baltimore, Maryland. They have the one plant, but they also have a brush handle plant at Keen, Massachusetts—I am corrected, that is Keen, New Hampshire, and that division is under the head of Mr. J. H. Heroy.

Q. Is he also a Vice President?

A. Yes. I failed to say the Paint Division has two linseed oil plants, one operating at Newark, New Jersey, and one at Redwing, Wisconsin.

Q. Do you have any more Divisions?

A. I don't believe so.

Q. Does each Division take care of its own purchases of materials?

A. Quite largely, I think.

Q. And does each Division take care of its own shipping?

A. Entirely so. Pardon me, to be perfectly accurate, what do you mean by shipping?

A. I was going to specifiy what railroads over which it should be shipped and all that kind of thing?

A. We have a Traffic Department that is at the general office, that cooperates with these divisions, but who directs what, I don't know.

Q. Are your different divisions allowed to function pretty [fol. 210] much as separate identities, or subject to some rigid control as to superior officers?

A. No, sir, they operate quite separately.

Q. Who determines the labor policies for your different divisions? Do you determine it for your division?

A. Yes, sir.

Q. And would Mr. Higgins, for example, determine it for the Commercial Division?

A. Yes, sir.

Q. And the other Chairmen and Vice-Presidents, for their respective division?

A. Correct.

Q. In that regard are you subject to still higher control from the corporation?

A. No, not control. We are an organization that I think cooperates to a large degree. Our President is very active in contacting all the divisions.

Q. Is your Sales Division a separate Division or department, or do you have a Sales Division for your plate and safety glass work?

A. The same division. In other words, plate and safety glass are all handled by our glass sales department.

Q. Is there a group of people in the flat glass division who take care of the sales of glass?

A. Yes.

[fol. 211] Q. And then will the flat glass division, for example, have a separate group to take care of their products?

A. Entirely so.

Q. And the Chemical Division will have their own sales force; is that correct?

A. Yes, sir.

Q. Does each Division have its own bookkeeping system?

A. I think so.

Q. Do you maintain separate accounts with separate audits of such material?

A. You are asking me something that I really don't know very much about, but I assume each division has its own bookkeeping system, and the final results are transferred to general books. I wouldn't want to be held to this statement.

Q. How about purchases? Perhaps you have answered it before. Each Division takes care of its own purchases?

A. Yes, my purchasing department may cooperate to a degree on the purchase of some materials, for instance. But the Paint Division, I think, do all of their own purchasing. The Chemical Division does virtually all of its own purchasing.

Q. Are there any other plants or factories producing flat glass for this company which are not under your jurisdiction?

A. No, sir.

Q. So that the plants and factories which we have been talking about this afternoon constitutes all the flat glass [fol. 212] production of your company?

A. In this country.

Q. Yes, the one in Belgium, is that under you?

A. No, sir.

Q. That is all.

Recross-examination.

By Mr. Kleeb:

Q. The Kokomo, Indiana, Works and the Elwood, Indiana, Works, and this pot making section at Ford City, do not engage in the manufacture of flat glass in any respect, do they? That is, they do not make glass?

A. First of all, I didn't know we had a plant in Tacoma.

Q. I guess I mispronounced it. It is Kokomo.

A. Answering your questions one at a time, Kokomo has no connection with the manufacture of glass. It simply is manufacturing an article which is used in the glazing of glass, and is employed by our warehouses in the setting of the jobs and such things, or it may be sold to other jobbing houses. The Elwood operation manufactures nothing but refractories, either those that we use ourselves, or others to whom we sell. We might manufacture pots there as well as

clay articles, and as we do not use any pots ourselves, they are sold on the market. The pot moulds at Ford City, I would not have mentioned it, had it not come about in some manner, because we have always felt that a pot house is one of the necessary departments in a plate glass plant. Crystal [fol. 213] City has had one up until the destruction of the furnace hall and may from time to time manufacture small quantities of refractory blocks and shapes, but we have never considered one of the pot houses at our factories as a separate factory; it is just a department.

Q. It is an integral part of that work?

A. Yes, sir.

Q. That is all.

Trial Examiner Dudley: Thank you very much, Mr. Clause.

(Witness excused.)

L. L. CHANDLER, a witness called by and on behalf of the Petitioner, being first duly sworn, was examined and testified as follows:

Direct examination:

By Mr. Holmes:

Q. Will you state your name to the Examiner, please?

A. L. L. Chandler.

Q. Will you speak loud enough so that we can all hear?

A. Yes, sir.

Q. How do you spell your name?

A. C-h-a-n-d-l-e-r.

Q. Where do you live, Mr. Chandler?

A. Pittsburgh.

Q. Mr. Kleeb seems to be a little hard of hearing. Will you please speak a little louder?

[fol. 214] A. Yes, sir.

Q. What is your occupation or profession?

A. I am an Efficiency Engineer for the Company.

Q. When you say the Company you mean the Pittsburgh Plate Glass Company?

A. No, I mean for the Glass Division.

Q. For the Glass Division of the Pittsburgh Plate Glass Company?

A. Correct.

Q. When you say Glass Division, now what does that include?

A. It includes the manufacture of flat glass, window glass, plate glass and safety glass.

Q. What does that include? What do you mean by that?

A. By that I mean—what are the plants, you say?

Q. Yes, where are they?

A. Creighton, Ford City, Clarksburg, Mount Vernon, Henryetta, Crystal City.

Q. How long have you been such Efficiency Engineer Expert as employed by the Pittsburgh Plate Glass Company?

A. I have been employed since 1900.

Q. How long as Efficiency Engineer?

A. As Efficiency Engineer for twenty-five years.

Q. And you are more or less familiar with the plant conditions, are you not, in all of the six plants enumerated?

A. I am.

[fol. 215] Q. Are you familiar with the types of employment in each plant?

A. The types of employment, you *day*?

Q. Yes, types of employment?

A. Yes.

Q. And you are acquainted with the number of employees in each plant, are you?

A. Correct.

Q. You are familiar with the number of employees in the Production and Maintenance Department of these plants?

A. Yes, sir.

Q. Now, what are your duties in detail briefly—I don't want you to go into too much detail, but what are your duties as this expert connected with these various plants?

A. To keep in touch with the organizations, to see that the men are not overworked, that the work is balanced and done as reasonably as possible.

Q. Do you have anything to do with getting the finished commodities out of the plants or anything like that?

A. No.

Q. Or as to the method to be used in the manufacture?

A. Any improvement in method that we can originate, we do.

Q. By improvement in method, you would mean methods of employment, as to whether the improvements that might——

A. I was referring to machine improvements more than [fol. 216] anything else.

Q. Oh, machine improvements? It requires men to operate machines, does it not?

A. Yes.

Q. Your General Office, I take it, is in Pittsburgh; is that right?

A. Yes.

Q. And you travel from plant to plant, checking them at different times, I take it?

A. That is correct.

Q. When you go into a plant, I suppose your proceedure would be to take it up with the Plant Superintendent and to work with him to see what his problems are; is that right?

A. That is right.

Q. And then if you decide you are going to make a change, you have to take that matter up with the organization, or do you do that?

A. Everything through the Superintendent. The Superintendent is the man in charge of the plant in every way.

Q. You tell him what to do if you decide to make the change?

A. No, I don't tell him what to do; I just suggest improvements.

Q. And if — doesn't want to do it, what then?

A. Then it is not done.

Q. Is that the case in every instance?

[fol. 217] A. I don't know of any case where that has not been followed.

Q. It depends entirely upon the Plant Superintendent?

A. Yes, sir.

Q. Well, any suggestions you have are generally carried out by the Plant Superintendent, is it not, in the way of changes?

A. Well, not always.

Q. Well, in the majority you would say it is?

Mr. Buchanan: Objected to as irrelevant, incompetent and immaterial.

Mr. Holmes: The only purpose is to show centralization.

Trial Examiner Dudley: I will allow him to answer it.

(The Reporter read the previous question.)

A. I think that is true.

Q. Are you familiar with the interchange of materials between the different plants in the divisions?

A. Not particularly. Are you referring to the shipment of materials between the different plants in the divisions? Are you referring to the shipment of glass from plant to plant?

Q. Yes.

A. No, that doesn't come under my jurisdiction at all.

Q. Are you familiar with the glass that is made in one plant and then shipped to another plant for processing for [fol. 218] safety glass? Do you know anything about that?

A. No, nothing at all.

Q. You are familiar, are you not, with the number of men on the payrolls in each of the plants?

A. Yes.

Q. You have that information?

A. Yes, I have.

Q. In Crystal City as of February 1, 1938, what does your record show that the payroll was at that particular time?

Mr. Buchanan: Objected to as irrelevant and immaterial. The issue is of the employees at the present time and not at the times stated.

Trial Examiner Dudley: I will overrule the objection. By way of explanation, you understand that because we are concerned not only with the present time, but it is possible that the present time might not be a normal operation, the preceding witness said something about a much smaller number of employees than normal.

Mr. Buchanan: There isn't anything to suggest that February 1, 1938, was an abnormal time, and unless it is followed by something that will make that point clear, it will just cumber the record. I don't think it has anything to do with the case. I call for an offer.

Mr. Holmes: The only reason that I would like to have the payroll of that date is that that is the approximate date of [fol. 219] the agreement with the Company with respect to representation with all other plants, and I felt that the payroll case at that time, with respect to our membership numbers with respect to that particular date, and then I wanted to present the approximate payroll as of April 4th, when the petition was drafted, and then although I wanted to

show the payroll of September 30th, I thought that would give to the Board a pretty fair picture of the general conditions of this plant over a sufficiently long period of time, that it would be a pretty good indication of what is the proper thing to do in this case. I don't think it is unfair to the company.

Mr. Buchanan: I don't think it is unfair to the company, but it has nothing to do with the case. I respectfully submit you might just as well take the date some two years ago, when there was a request that the Federation of Flat Glass Workers be permitted to bargain as a collective agency for all the glass plants of the company, which request was turned down. No petition for investigation was filed at that time; neither was there any petition for investigation filed for February 1st, 1938. It is in evidence from Mr. Clause that the first time he heard that a Local had been organized by the Federation of Flat Glass Workers at Crystal City was at a later date than February 1, 1938; it was in April, 1938. It is in evidence also that no men from the plant at Crystal City appeared in any of the negotiations for a Union contract for collective bargaining with the [fol. 220] Federation of Flat Glass Workers at any time until the present. I don't see any need to go back to what is ancient history so far as this company is concerned at Crystal City, except the request made by Mr. McCabe in 1937 to bargain for the men in Crystal City. It seems to me that the payroll figures of later date should be used if equity is to be done herein certifying an agency for collective bargaining. I feel that we ought to have the latest payroll and not one that has nothing to do with the present situation of the parties.

Trial Examiner Dudley: Let us get what information the witness has and then we can size it up later.

Mr. Buchanan: I got it from Mr. Kleeb, that the Union for some reason didn't call for the payroll as of February 1st. I ask for some information to be collected as of that date, but I object to the relevancy of that information.

Trial Examiner Dudley: I will permit it. Do you remember the question?

A. I do not.

Mr. Hoffmeister: I want to join in the objection on behalf of the Crystal City Flat Glass Workers Union.

(The Reporter read the previous question).

Q. Protection of maintenance employees other than supervisory and clerical employees?

A. Are you asking for the number of men at that time?

[fol. 221] Q. The number on your payroll at that time excepting clerical office employees, with the exception of the clerical employees used in the Production Department.

A. That's right.

Mr. Buchanan: And supervisory employees.

By Mr. Holmes:

Q. And supervisory employees.

A. Our records show that 1916 men were on the payroll at that time under the classification you specified.

Q. 1916, you mean?

A. 1916.

Q. That is of February 1, 1938?

A. That is right.

Q. Do you have with you the number on April 4, 1938?

A. April 4, 1938?

Q. That is right.

Mr. Buchanan: Objected to as irrelevant and immaterial.

Mr. Hoffmeister: I join in that objection on behalf of the Crystel City Glass Workers Union.

Trial Examiner Dudley: Objection is overruled.

A. 1582.

Q. And as of September 30, 1938?

A. 1607.

Q. Do you have with you the number of employees in the Ford City Plant on February 1, 1938?

A. Yes.

[fol. 222] Mr. Buchanan: I make the same objection, Mr. Examiner.

Mr. Hoffmeister: We join in the same objection.

Trial Examiner Dudley: Let it be understood that the same objections will follow as of February 1, 1938, the objection of the Crystal City Glass Workers' Union and also the Company are noted and they are overruled, and with regard to your question, are you referring to Works No. 4 or No. 6 or both at Ford City?

Mr. Holmes: I included both of them at Ford City because I think that is the way the company carries them as one.

A. No, I have them separately.

By Mr. Holmes:

Q. Well, give them to us separately.
A. 1535, February 1, No. 4.
Q. Is that Works No. 4?
A. That is Works No. 4.
Q. How many?
A. 1535.
Q. As of April 4th?
A. 1402.
Q. And of September 31, 1938?
A. 1408.
Q. Now, No. 6?
A. February, 367.
Q. April 4th?
[fol. 223] A. 374.
Q. And September 30th?
A. 263.
Q. Creighton, Pennsylvania, as of February 1, 1938?
A. 256.
Q. As of April 4th?
A. I haven't April 4th.
Q. And September 30th?
A. 274.
Q. That was Works number what?
A. Works No. 1, not the safety glass plant.
Q. Now, No. 2, is that the next one?
A. The Safety Glass Plant is at Creighton.

Trial Examiner Dudley:

Q. You call it the Duplate Division, don't you?
A. Yes, the Duplate Division.

By Mr. Holmes:

Q. The Duplate Division at Creighton, Pennsylvania, is Works No. what?
A. It is a part of Works No. 1.
Q. As of February 1st, what number?
A. 947.
Q. And as of April 4th?
A. 467.
Q. And as of September 30th?
A. 555.

[fol. 224] Q. Is that all of your plants at Creighton, Pennsylvania?

A. That is correct.

Q. Clarksburg, West Virginia, how many plants do you have there?

A. One plant.

Q. What number of employees as of February 1, 1938?

A. 350.

Q. That is, you are not including the cutters?

A. No.

Q. That is flat glass workers you are referring to?

A. Yes.

Q. And as of April 4, 1938?

A. I haven't April 4th.

Q. As of September 30th?

A. 353.

Q. Mount Vernon, Ohio, as of February 1, 1938?

A. 226.

Q. April 4th, do you have that?

A. I haven't got it.

Q. And September 30th?

A. 110.

Q. Henryetta, Oklahoma, as of February 1, 1938?

A. 289.

Q. April 4th, do you have that?

A. No.

[fol. 225] Q. September 30th?

A. 207.

Q. In all of the plants that you have given me figures on the employment at the different dates, three plants, that excludes the cutters in all three plants?

A. That is correct.

Q. They are not included in those totals that you have given?

A. Not included.

Q. On the dates February 1st, April 4th and September 30th, the various numbers of employees that you gave us for the three different plants did not include the employees that were classed as window cutters?

A. The glass cutters in the window glass plants were not included in those dates at any factory.

Q. I believe that you are familiar with the various occupations and the base rates in the various plants, are you not?

A. Fairly well.

Q. Are the base rates the same in all the plants, the base rates of pay for the production employees?

A. Practically so.

Q. When you say practically, wherein do they differ?

A. Well, there are a few that differ. The great majority are the same.

[fol. 226] Q. They are the same in Crystal City as they are in Ford City; Creighton, Pennsylvania, and Clarksburg, West Virginia, and Mount Vernon, Ohio and Henryetta, Oklahoma?

A. The same thing.

Q. All the plants, is that right?

A. Well, that will have to be qualified to a certain extent.

Q. How would you qualify it?

A. The occupations, while they may have the same name and the same number, the work varies—the men do not do identical work.

Q. But the base rates for the same kind of work in the different plants, is the same, is it not?

A. Generally speaking, yes.

Mr. Holmes: Will you mark this, Mr. Reporter, as Petitioner's Exhibit No. 6 and this as Petitioner's Exhibit No. 7?

(Whereupon the documents referred to were marked as Petitioner's Exhibits Nos. 6 and 7 for identification.)

By Mr. Holmes:

Q. I will ask you to examine Petitioner's Exhibits Nos. 6 and 7 and tell us what those two exhibits are, if you know?

A. No. 6 includes the rates at the three window glass plants now in effect.

Q. And who prepared that particular document, if you know?

[fol. 227] A. Well, it was prepared in conjunction with the Committee of the Flat Glass Workers.

Q. And who actually printed it or got it out?

A. Well, I don't know who printed it.

Q. Well, did the company print it and put it out, or do you know?

A. The company had this printed, yes.

Q. Now, exhibit No. 7, what is that document?

A. That includes the rates as agreed upon with the flat glass workers, for the workers at Creighton, Ford City, two plants at Ford City and the Duplate plant.

Q. That covers five plants then, is that right?

A. That is correct.

Q. Then you can state whether or not the same base rate is applied to Crystal City generally?

A. Generally speaking, yes.

Q. The same thing?

A. Not one hundred per cent, but to a great extent, yes.

Q. You say not one hundred per cent. Wherein does it differ?

A. I can't tell you the identical jobs. There are jobs that have a slightly different rate.

Q. There are a few jobs in Crystal City that are different than the jobs in other plants; is that right?

A. What do you mean?

[fol. 228] Q. The type of furnace, the type of things they do, it is a little different work and probably a little different class of pay?

A. That is true, but there are other tank jobs that are different at Crystal City.

Q. All right, when this was agreed to by the company with the organization, the petitioner in this case, that rate of pay or that base rate was put into effect at all the plants at the same time, was it not?

A. I have no knowledge regarding Crystal City. I don't know what date that was put in at all.

Q. Well, what was your best judgment about it?

A. Well, I don't remember when it was put in; I don't actually know when that was put in.

Q. Well, now, you are in charge of this operation, aren't you?

A. I am not; I never claimed I was in charge.

Q. Well you are familiar with what is going on in the plants?

A. As far as rates.

Q. Now, if you are familiar with rates, you must know when the rates went into effect in Crystal City as well as the other plants?

A. I don't remember when it went into effect at Crystal City.

[fol. 229] Q. Do you remember when it went in at the other plants?

A. Yes, February 1st, according to this agreement.

Q. And it became effective January 27, 1937, didn't it?

A. Yes.

Q. And if it became effective January 27, 1937, isn't it true that ordinarily when a base rate goes into effect in one of your plants, it goes into effect at all the other plants?

Mr. Buchanan: Objected to.

Trial Examiner Dudley: Is that correct?

A. I don't remember the date that was put into effect.

By Trial Examiner Dudley:

Q. Is there a policy that if you would put it into effect it would be the same date you would put it into effect at the other plants?

A. Crystal City was not under the agreement reached with the Flat Glass Workers, and not necessarily anything was done at Crystal City at that time. Whether it was done at a subsequent time, I don't remember.

Q. Do you know whether there is a policy of paying the men for the same kind of work, the same base pay at the different plants?

A. Yes, generally that is true, but as I say, I don't exactly remember. Some of the work may be the same. A great deal of the details of it may be the same, but there is a difference in the work and they might call for a different rate.

[fol. 230] By Mr. Holmes:

Q. What would you say, Mr. Chandler, with respect to the payroll for Ford City, Creighton, Pennsylvania, as to the figures that you gave me as of February 1, 1938 and April 4, 1938 and September 30th 1938 as being normal payrolls for the plants?

A. Pardon me? What factories?

Q. Ford City and Creighton, Pennsylvania?

A. At Ford City I would say they were normal at No. 4 Works.

Q. How about No. 6?

A. At No. 6 there is quite a little variation due to business conditions.

Q. In No. 6 plant, for the record, just what do they manufacture at No. 6 plant?

A. They manufacture carrara or structural glass.

Q. Structural glass; just what do you mean by that?

A. Well, the heavier glass you use in building construction as against windows, etc.

Q. When you say construction, is that used in place of brick construction, used on sidewalls of buildings?

A. They use them in facing building-.

Q. I see. In facing buildings?

A. Yes.

Q. And general construction work?

A. General construction work.

Q. As to Creighton, Pennsylvania, what would you have [fol. 231] to say to that as to whether the payroll was normal on those dates enumerated?

A. The payroll was not normal at either date, February 1st or September 30th, inasmuch as the factory was idle; nothing being produced. The only men employed were caretakers and the men in the shipping department getting out the shipments.

Q. What is the normal payroll for Creighton, Pennsylvania?

Mr. Buchanan: Objected to as irrelevant.
Trial Examiner Dudley: He may answer.

A. It is approximately 1200 men. I mean Creighton, I am talking about.

Q. Yes, 1200 men?

A. 1200 applies to Creighton.

Trial Examiner Dudley:

Q. Does that apply to safety glass and plate glass?

A. That applies to flat glass only.

By Mr. Holmes:

Q. Do you have any safety glass at Creighton?

A. Yes.

Q. How does that compare to normal payroll?

Mr. Buchanan: Objected to as irrelevant and immaterial.
Trial Examiner Dudley: Objection overruled.

Mr. Buchanan: May I have it understood, Mr. Examiner, that my objection will apply to all questions as to normal operations?

[fol. 232] Trial Examiner Dudley: That is understood, both objections noted and overruled.

Mr. Hoffmeister: If your Honor please, any testimony with reference to the number of employees employed on those two days, I ask that the objection be renewed as to any such questions.

Trial Examiner Dudley: That is my understanding.

A. The February 1st date was the most nearly normal at that time at the safety glass plant.

By Mr. Holmes:

Q. You are familiar with the products made in the different plants, are you?

A. To a certain extent, yes.

Q. Insofar as the products of Crystal City and that particular plant, what other plants compare favorably with the products that are made at this particular plant?

A. Crystal City produces a glass which compares with Creighton and Ford City.

Q. That is right. What reason, or do you know why Crystal City employment shows very little decrease while in Creighton and Ford City between the dates set out by you there is so much? How do you explain that, or can it be explained?

Mr. Buchanan: Objected to as incompetent and irrelevant.

Mr. Hoffmeister: The same objection.

Trial Examiner Dudley: Objections overruled.

A. Simply, I suppose, the allocation of orders. I am not [fol. 233] familiar with why they were not operating, but they were not operating.

Q. Was the order sent from the main office here in Pittsburgh and billed to Crystal City, excluding these other two plants, or how do you work that? We had some testimony here as to the proportion of orders.

A. I had nothing to do with proportioning orders. I have nothing to do with sales and I know nothing about it.

Q. Can you tell us why employment at Crystal City shows practically no decrease, while the others show a marked decrease?

A. Because Crystal City was operating and the other two were not.

Q. Do you know why that was so?

A. No, I do not. That is not my province.

Q. Whose problem would that be, in the Sales Department, or do you know anything about the mechanics of who places the various orders?

A. I should say that is the function of the Sales Department, although I am not familiar with the Sales Department.

Mr. Holmes: At this time, I wish to offer Petitioner's Exhibits Nos. 6 and 7 as part of the record.

Trial Examiner Dudley: Is there any objection?

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection.

[fol. 234] Trial Examiner Dudley: There being no objection, the two exhibits may be admitted into evidence as offered.

(Whereupon the documents heretofore marked for identification as Petitioner's Exhibits Nos. 6 and 7 was received in evidence.)

[fol. 235] By Mr. Holmes:

Q. Mr. Chandler, are you familiar with the conferences and the agreements with respect to the wages that have taken place at different times between the Company and the Federation of Flat Glass Workers?

A. I have been present at some of the conferences, not all of them.

Q. Were you in a conference in 1936 or 1937,—in 1936, where there was some question over wages? Are you familiar with that conference?

A. I am really not sure whether I attended that or not, I don't remember it.

Q. Do you recall at that particular time——

A. I was at part of that conference. I correct that.

Q. Do you recall in the settlement of the case that certain employees at Crystal City were granted back pay and increase in wage as agreed upon in the other plants of the company?

A. No, I don't remember that at all. I didn't have anything to do with that.

Q. Do you know whether or not that was done?

A. No, I don't know that.

Q. Are you familiar with the advertising of the Company with respect to the sales of its commodities?

A. Only in a very minor degree. I know practically nothing about the advertising.

Q. Where is the advertising controlled? That is, where [fol. 236] do they let the contract for the advertising and the different material?

A. I don't know about that. I don't know anything about it to know that.

Cross-examination:

By Mr. Hoffmeister:

Q. Mr. Chandler, were you ever associated with the Management of Crystal City plant No. 9?

A. Yes.

Q. In what capacity?

A. As Assistant Superintendent.

Q. When was that?

A. When was it?

Q. Yes.

A. I was there at two different periods, one in about 1903, and one in 1914 and '15.

Q. Did you live in Crystal City at that time?

A. Yes.

Q. How often do you visit the plant at Crystal City now in your present capacity?

A. I haven't been there,—it has been almost a year, I imagine, since I have been at Crystal City.

Q. So you are not familiar with the social, economic, and living conditions there?

A. Not within the last year. I haven't been there but very little. Maybe that might be nine months, I am not [fol. 237] sure, since I was there last, but it is a considerable time.

Q. 1914 or 1915 when you were there, just tell us briefly what kind of a community that was at that time when you were located there?

A. Well, the community was dependent on the Pittsburgh Plate Glass Company factory for its support. It was a self-contained community, it was in the center of a farming

district, very little manufacturing and very little communication with St. Louis, even though at that time it was practically an independent community.

Q. And the people stayed in that community and there were people who didn't even go to St. Louis, which was thirty miles away?

A. That is correct.

Q. And they had their own amusements in Crystal City, and they didn't care to step out of their boundary line, is that correct?

A. Yes.

Q. Were they thrifty people?

A. Yes, they were thrifty people.

Q. Were the workmen engaged in the plant at that time an intelligent type of workmen?

A. Yes, they were intelligent.

Q. The Glass Plant was about the largest industry there?

A. It was the largest industry there.

[fol. 238] Q. Crystal City was practically built around the Glass Plant, wasn't it?

A. That was back in 1870.

Q. Well, even when you were there in 1904, and 1914 and '15 the whole town revolved around the glass plant, didn't it?

A. It did.

Q. At that time did that community differ from other communities where glass plants were located so far as you know?

A. I didn't get that question.

Q. In 1914 and '15 did the community at Crystal City differ from other communities where glass plants were located?

A. It differs in that it was more self-contained and it didn't communicate with the outside like the factories at Ford City or Creighton might do.

Q. Now, are there any distinctive features to this plant at Crystal City Missouri at the present time that are different from the other plants?

A. Of course the main difference is that we mine our own sand there. We get especially fine grade of sand that is mined on the property adjoining the property, and the fact that the limestone and the other materials that we use we find right near Crystal City, that is especially true.

Q. And is this process known as the Pilkington process used at this plant?

A. Yes.

[fol. 239] Q. And they draw wider pieces of glass at this plant than at any other plant of the Pittsburgh Plate Glass Company?

A. I am not sure of that. It is very much wider than Creighton, but I am not sure whether it is wider than Ford City.

Q. Well, you were there in 1914 and 1915 as assistant Superintendent; how were your problems solved such as grievances in the plant?

A. They were solved by the superintendent.

Q. And do you know whether that is the same method used today?

A. Yes, that is the same method used today.

Q. Has there been any serious problem at the Crystal City plant in the past five years that you can recall?

A. Nothing I know of.

Q. Did you ever hear of the Federation of Flat Glass Workers being active in that plant up until April of this year?

A. Not until this year.

Q. As far as you know, was there ever any effort made by the Federation of Flat Glass Workers to be included in the contract along with the other plants in the contract of employment with the Company?

A. Not by the employees of Crystal City or by anyone from the Crystal City District.

Q. What was the population of Crystal City when you [fol. 240] were there in 1914 and 1915, do you recall?

A. I don't think it is very much different than it was or it is now. Maybe a few hundred different, but I doubt whether it is very much different.

Q. About how much?

A. I imagine about a thousand, probably.

Q. How much would you say it was in 1914 and 1915?

A. Probably seven thousand. I may not be very accurate on that.

Q. You are taking into consideration Festus and Crystal City?

A. Yes, Festus and Crystal City.

Q. They are often referred to as the twin cities?

A. Yes.

Q. And their population now is about 8,000?
A. Yes.

Cross-examination.

By Mr. Buchanan:

Q. Mr. Chandler, your attention was called on direct examination to the distribution of employment at Creighton and Ford City; do you know what sorts of glass were in stock at Creighton and Ford City in the early part of this year, compared to the stock at Crystal City?

A. The stocks in the east at Ford City and Creighton were larger than Crystal City, I believe.

Q. Do you know whether the employment has been kept [fol. 241] up to such a figure at Ford City and Creighton as to supply the eastern demand?

A. Yes, the stocks have been kept up.

Q. And the employment has been kept up, has it?

A. Yes.

Q. At Crystal City has any other operation than the manufacture of glass requiring employment of men started in the course of the present year?

A. I didn't get that question.

Q. To be more specific, have some of the men on the pay-roll in Crystal City been engaged in the demolition of the old pot plant?

A. Yes.

Q. How long have you operated this Pilkington process at Crystal City?

A. I should say within the last six months. I am not very accurate on that date, but I think that is true.

Q. Has there been any other work of an experimental character at Creighton or Ford City to require a force of men this year compared to the employment required by the operation of this new Pilkington process?

A. No.

Q. That is all.

Redirect examination.

By Mr. Holmes:

[fol. 242] Q. Mr. Chandler, do you have with you a detailed statement of the payrolls of the various plants or do you have just the totals?

[fol. 243] A. I have a list for certain dates. I have a list of the employees' names, date and occupations.

Q. Can you produce that?

A. Of what date?

Q. Of February 1, 1938.

A. February 1, I only have a list showing the total number of men.

Mr. Kleeb: If the Trial Examiner please, if I may, I would like to examine this witness on the payrolls.

Trial Examiner Dudley: You may proceed.

By Mr. Kleeb:

Q. Did you prepare these payrolls at the request of the Board, Mr. Chandler, through your counsel?

A. I had them prepared, yes.

Q. And I believe the ones that you had prepared were of a date of December, 1937 and April 4, 1938?

A. That is correct.

Q. What is the date in December?

A. December 8th.

Q. Will you please produce those two payrolls as of December 8th and April 4th?

(Witness produces payrolls)

Mr. Kleeb: Mr. Reporter, will you please mark this as Board's Exhibit No. 4-A for identification?

(Whereupon the document referred to was marked Board's Exhibit No. 4-A for identification).

[fol. 244] By Mr. Kleeb:

Q. Mr. Chandler, I show you Board's Exhibit No. 4-A for identification, and ask you what that is?

A. It is names on the payroll at Creighton on December 8, 1937.

Q. Does that include Creighton Plate and Duplate?

A. No, just the plate factory, the plate glass factory.

Q. You don't have a payroll for December 8th for the Creighton Duplate factory?

A. No.

Q. I show you Board's Exhibit No. 4-B for identification. Please state what that is. Mr. Reporter, will you please mark these as Board's Exhibit Nos. 4-B, 4-C, 4-D?

(Whereupon the documents referred to were marked as Board's Exhibits Nos. 4-B, 4-C and 4-D for identification.)

A. It is a payroll for Clarksburg Works, No. 12, on December 8th.

Q. I show you Board's Exhibit 4-C for identification and ask you what that is?

A. A payroll for Works No. 11 at Mount Vernon for December 8th.

Q. And Board's Exhibit 4-D for identification and ask you what that is?

A. A payroll for Works No. 10 at Henryetta for December 8th.

Mr. Kleeb: I offer Board's Exhibits Nos. 4-A, 4-B, 4-C and 4-D in evidence.

Mr. Buchanan: Objected to as incompetent, irrelevant [fol. 245] and immaterial.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: Objection overruled. They may be admitted.

(Whereupon documents heretofore referred to Board's Exhibits Nos. 4-A, 4-B, 4-C and 4-D for identification was received in evidence.)

Mr. Kleeb:

Q. Do you have the payroll lists for the other glass plants for December 8, 1937?

A. No.

Mr. Kleeb: Mr. Reporter, will you mark these as Board's Exhibits Nos. 5-A, 5-B and 5-C?

(Whereupon documents heretofore referred to as Board's Exhibits Nos. 5-A, 5-B and 5-C were marked for identification.)

Mr. Kleeb:

Q. I show you Board's Exhibit No. 5-A for identification. Please state what that is?

A. Payroll for April 4th for Ford City Works, Shop No. 2, Works No. 4 and Works No. 6.

Trial Examiner Dudley: Say that again, please?

A. For Works Nos. 4 and 6, which includes Shop No. 2 as listed here.

Trial Examiner Dudley:

Q. That is both plants at Ford City?
A. Both plants at Ford City.

Mr. Buchanan: The payroll?
[fol. 246] A. Yes, the payroll.

By Mr. Kleeb:

Q. I show you Board's Exhibit No. 5-B for identification. Please state what that is?
A. It is the payroll for April 4th for the Duplate Plant at Creighton.
Q. I show you Board's Exhibit No. 5-C for identification. Please state what that is?
A. The payroll for April 4th, works No. 9 at Crystal City.
Q. Do you have the payroll list for the other glass plants as of the date of April 4, 1938?
A. No, I do not.

Mr. Kleeb: I offer Board's Exhibit Nos. 5-A, B and C in evidence.
Mr. Buchanan: Objected to as irrelevant and immaterial.
Mr. Hoffmeister: I join in the objection.
Trial Examiner Dudley: Objection overruled and the same are admitted in evidence.

(Whereupon the documents heretofore marks as Board's Exhibits Nos. 5-A, 5-B and 5-C for identification were received in evidence.)

Mr. Buchanan: I understand that all the dates are April 4, 1938?
Mr. Kleeb: Yes.

By Mr. Kleeb:

Q. Before going into the current payroll, April 4, 1938 payroll, I would like a little explanation, if I may have it, [fol. 247] regarding these payrolls. Referring to Board's Exhibit No. 5-A, which is the Ford City payroll as of April 4, 1938, if a payroll had been made up of those plants for December 8th, 1937, would it have been about the same?
A. Yes.
Q. So that you have made up another payroll for December, 1937, would have been a duplication?
A. Duplication exactly.

Q. I show you Board's Exhibit No. 5-B, the Duplate division payroll of the Creighton plant for April for 1938; is that right?

A. Yes; that is right.

Q. If the payroll had been made up for that division as of December 8, 1937, would it have been about the same?

A. Practically the same.

Q. And likewise a duplication to have made up another payroll?

A. Right.

Q. I show you Board's Exhibit No. 5-C, which is the payroll of the Crystal City Plant of April 4, 1938. Would a payroll as of December 8th, 1937 have been about the same?

A. Yes.

Q. And likewise the duplication?

A. When I state that I don't know exactly what was operated in Crystal City December 8th, but they were [fol. 248] operating at this time and I assume they were operating in December.

Q. You are assuming that the operation would have been about the same in December as in April?

A. Yes.

Q. And likewise it would have been merely a duplication to have made up a payroll as of the December date?

A. That is correct.

Q. I show you Board's Exhibit 4-A, which is the Creighton Plate plant, is it not?

A. That is correct.

Q. The payroll as of December 8th, 1937?

A. Yes.

Q. And in giving those totals before to Mr. Holmes, you gave no figure for April 4, 1938; was there any particular reason why that figure could not have been determined, Mr. Chandler?

A. What was the question? December 8th?

Q. No, April 4, 1938.

A. For the Creighton factory?

Q. Payroll of the people for the Creighton plate factory?

A. For the reason we did not think we were operating. The reason we went back to December 8th was that we had practical operation.

Q. That is the reason for not having the April 4, 1938 date?

A. That is correct.

[fol. 249] Q. Now, I show you Board's Exhibits Nos. 4-B, C and D, identified as the payroll of the three window glass plants as of December 8th, 1937?

A. Yes, December 8th, 1937.

Q. In giving Mr. Holmes the totals, you didn't have any totals for April 4, 1938 for any of those three plants?

A. No.

Q. Why?

A. Because the two plants were not operating at that time and we took the date of December 8th when three of the plants were operating for the period, the last time they were operating.

[fol. 250] Mr. Kleeb: If the Trial Examiner please, I would like to say for the record that the Flat Glass Workers made a request of me that I request the Company to produce the payroll as of February 1, 1938. Mr. Buchanan discussed this payroll problem and both realized the amount of labor involved in preparing payrolls of such a large company for many days, so we more or less agreed upon the kind of payrolls which are in evidence to this point, with the exception of the current payroll, which will be offered later, and we further agreed that the total number of workers in the various plants as of the date February 1, 1938 would be offered. Mr. Buchanan said that if it was later determined by the Trial Examiner that the names of the payroll on another date than that which we have offered were necessary he would be willing to cooperate and get those in evidence if the Trial Examiner felt it necessary. However, we did not, as you see, want to make up a lot of payrolls for a lot of days in advance of the trial.

Mr. Buchanan: That covers our position with one exception, that I am sure was a slip of the tongue on the part of Mr. Kleeb, and that is there was no agreement made that they would be offered in evidence, but that they would be prepared, so I took the position with Mr. Kleeb as I am taking it now, that payrolls prior to the present are not material in the suit. I think that is right.

[fol. 251] Mr. Kleeb: Yes.

Mr. Buchanan: But these data were prepared under the agreement with Mr. Kleeb as mentioned, except that we took the position that payrolls of an earlier date than September 30, 1938 are irrelevant and immaterial.

Mr. Kleeb: I might add that the reason I have offered them is that I have been informed that the Union will offer

its membership for these certain dates, and I relayed that information to Mr. Buchanan, and he had no objection.

Mr. Buchanan: I don't believe I heard what date your offer of membership was. I believe the question there is the membership as of the present date, just as the question as to the list of employees of the present date.

Mr. Kleeb: I guess that is up to the Union.

Mr. Buchanan: I hadn't heard the date that the Union wanted to offer their cards.

By Mr. Kleeb:

Q. Have you also prepared a current payroll covering the glass plants of the company? By current I mean as of September 30, 1938?

A. Yes.

Q. Have you that with you?

A. Yes.

Q. May I have that, please?

A. Yes, sir. (Handed payroll to Mr. Kleeb).

Mr. Kleeb: Mr. Reporter, will you mark those as Board's [fol. 252] Exhibits Nos. 6-a, 6-b, 6-c, 6-d, 6-e, 6-f, and 6-g?

(The papers referred to were marked Board's Exhibits 6-a, 6-b, 6-c, 6-d, 6-e, 6-f and 6-g, for identification.)

By Mr. Kleeb:

Q. I show you Board's Exhibit No. 6-a and ask you what that is?

A. It is the payroll of the Creighton Plant as of September 30, 1938.

Q. What part of the Creighton plant?

A. The Creighton Plate Plant.

Q. I show you Board's Exhibit No. 6-b, what is that?

A. It is the payroll for the Duplate Plant for September 30th.

Q. These are all of 1938?

A. 1938.

Q. I show you Board's Exhibit No. 6-c, what is that?

A. It is the payroll of Plants Nos. 4 and 6 at Ford City for September 30, 1938.

Q. I show you Board's Exhibit No. 6-d. Please tell us what that is?

A. That is the payroll for Crystal City Plant No. 9, September 30, 1938.

Q. I show you Board's Exhibit No. 6-e; state what that is.

A. Payroll for Works No. 10, Henryetta, for September 30, 1938.

[fol. 253] Q. I show you Board's Exhibit No. 6-f; state what that is?

A. Payroll for Works No. 11, Mount Vernon, for September 30, 1938.

Q. I show you Board's Exhibit No. 6-g; please state what that is.

A. Payroll for Works No. 12, Clarksburg, for September 30th.

Q. And is it correct to state that the various totals on these various payrolls which are now in evidence are the figures which you gave to Mr. Holmes in his direct examination?

A. That is correct.

Q. With reference to these various plants?

A. That is the total of these various payrolls.

Q. Now, speaking of all the payrolls which have been offered, Mr. Chandler, is it a correct statement that they exclude supervisory employees?

A. Yes.

Q. Do they all exclude clerical employees, that is clerical office employees, I should say?

A. Yes.

Q. What do they include?

A. They include certain clerical occupations, what we call bookers who are operating in the plant.

Q. And production and maintenance employees?

A. Yes, in the production and maintenance.

[fol. 254] Q. I say, "And production and maintenance employees?"

A. That is right, yes.

Mr. Kleeb: I offer in evidence Board's Exhibits Nos. 6-a to 6-g, inclusive, in evidence.

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection.

Trial Examiner Dudley: There being no objection, the exhibits will be admitted into evidence as offered.

(The papers referred to, heretofore marked for identification as Board's Exhibits 6-a to 6-g, inclusive, were received in evidence.)

Trial Examiner Dudley: May I ask, does this include the miners at Crystal City?

The Witness: Yes, sir, it does.

Q. Mr. Chandler, are you familiar with the normal size of the payrolls, that is the number of people who are employed at these various plants?

A. Yes.

Q. What do you mean by normal?

A. A normal operation at a window glass plant is when one tank is operating with all the consequent labor operating.

Q. With all what?

A. With all the contingent labor operating.

Q. Do you mean operating to capacity?

A. Yes, when one tank is operating it has to operate to [fol. 255] capacity.

Q. Do you know as to what times these various plants might have been operating to capacity, and by that you mean a normal size payroll?

A. Yes.

Q. In that case then, could you tell me whether or not the payrolls of September 30, 1938 reflect a normal payroll as to the number of employees listed thereon?

A. They do not reflect a normal payroll at all plants.

Q. Do they reflect a normal payroll at any plant?

A. They reflect a normal payroll at Ford City, Crystal City and Clarksburg.

Q. You say at Ford City?

A. Yes.

Q. And Clarksburg?

A. Yes.

Q. And Crystal City?

A. Yes, that is correct.

Q. For example, I notice at Clarksburg that there are 353 employees as of September 30th and 350 as of February 1, 1938.

A. That is right.

Q. Now, could you tell me what happened to the three employees, or those three new employees?

A. I couldn't tell you that. I don't know. There is a [fol. 256] certain variation in organization due to the question of repairs or what might be out of the ordinary. That varies quite a little.

Q. At Ford City Plate Glass Works I notice that the number has dropped from 1535 on February 1 to 1408 on September 30, 1938. Taking the payrolls and checking them would tell me, I suppose, but is it your impression that most of the men working on September 30th had been working there say for the last year?

A. I think generally that is true.

Q. There seems to be about one hundred men who are not working there now who were working last February. Do you know what has happened to those men?

A. There may have been more construction work going at that time or some outside work that may have employed more men. The normal organization is fairly well set, but it does vary, due to the emergency of getting out orders or repair work.

[fol. 257] Q. At Ford City plant, do you think that 1535 men as of February 1st, or the 1408 men as of September 30th would constitute a normal?

A. Well, under the same circumstances, either one would be normal.

Q. Now, with the 1535 men working on February 1st, if business slackened up a bit, would you discharge those men or lay them off?

A. Well, as a rule we would lay them off if there was a temporary lull.

Q. And you would still consider them employees of the plant?

A. Oh, yes.

Q. At the Ford City Plant Works No. 6, I see likewise you lost about 100 men from February 1, 1938 to September 1, 1938; is the same situation true there?

A. That is dependent more on the condition of stock and the condition of orders more than anything else.

Q. And if you were working, as you apparently are, 100 men less than last February, would those men be on the lay-off list?

A. They would be temporarily laid off. Their connections are not severed.

Q. With regard to Crystal City, which I believe you said was operated about normal at this time?

[fol. 258] A. That is correct.

Q. There you have lost about 300 members since last February. Have you any explanation of that?

A. I think again that is a case of construction work, extraordinary work that is out of the normal.

Q. As I get it, you are inclined to think that the higher numbers of men employed last February were caused by men being called on for special construction work?

A. Construction or the condition of our orders, which may also affect our business.

Q. Do you think those members of last February, those figures, were they really high? Were they generally high?

A. Generally high.

Q. Abnormally high?

A. I think they are on the high side. It is more normal to take the lower figure.

Q. As of September 30, 1938?

A. That is true.

Q. Let us turn to some of the other plants. What would you say would be normal for the other plants?

A. Which plant?

Q. Take the Creighton Plant No. 1, plate glass?

A. The only one that is normal is the December 8th, because the others were shut down. Only such men were on as preparing the plant for operation.

[fol. 259] Q. That is December 8th, 1937.

A. Yes.

Q. You state that no date since then was normal?

A. No, that is the last period that they were operating at a normal rate.

Q. They operated any at all since then?

A. I think the last half month ending December 15th was when they shut down. It may have been the 18th, but it was in the neighborhood when the factory shut down, and it has not operated since.

Q. Have the men who were working at that time, not worked since they were laid off or discharged?

A. They were laid off.

Q. Are they still considered employees of the plant?

A. Well, they are not on the payroll.

Q. What do you mean?

A. Nor are they on the payroll, but they would be recalled in case we started to operate.

Q. Normally you would recall them before you would call any new men, would you?

A. We have an agreement to that effect.

Q. Oh, you do?

A. Yes.

Q. Is that agreement with the Union?

A. Yes.

[fol. 260] Q. How about the Duplate Division of the Creighton plant?

A. The higher number in February is nearer the truer operation or normal operation. We were not in operation on September 30th.

Q. With Board's Exhibit No. 5-B, which I believe is the payroll for the Creighton Duplate Plant on April 4, 1938, would that reflect a normal employment record?

A. The question again, please?

(The Reporter read the previous question.)

A. No, it would not; it was away below normal.

Q. Do you know about how far below normal it is?

A. I should say the February 1st figure is much nearer normal at that Duplate plant.

Q. And the February 1st figure is 947?

A. Yes.

Q. And April 4th is Board's Exhibit 7?

A. Yes.

Q. That is about 500 men. Have those men been laid off?

A. They have been laid off but subject to recall.

Q. Let us consider the Mount Vernon, Ohio, Plant, Works No. 11?

A. The only normal payroll would be December 8th; that is our last operation.

Q. December 8, 1937?

A. 1937.

[fol. 261] Q. Those men that are not now working, have they been laid off subject to recall?

A. Subject to recall.

Q. How about Henryetta, Oklahoma?

A. They haven't operated since December 8th.

Q. Do you know how many men at Henryetta have been laid off?

A. No, but the factory ceased operating and producing at that time, in the first half of December, and they haven't operated since.

Q. That is the same situation at Mount Vernon?

A. Yes; except that they are getting ready to operate and the men shipping.

Q. Do you have any idea as to when they will start operating at Henryetta?

A. About six weeks, I think.

Q. And at that time will you recall men who were working in December, 1937?

A. Yes.

Cross-examination.

By Mr. Buchanan:

Q. Mr. Chandler, as of December 8th, 1937, how many tanks were operating in the Plate Glass Plant at Creighton?

A. One tank.

Q. One tank as of December 8, 1937?

[fol. 262] A. That is correct, I think.

Trial Examiner Dudley: Are there any more questions of this witness? I guess that is all, Mr. Chandler. Thank you very much.

(Witness excused).

Trial Examiner Dudley: I wish that all counsel would be sure that they do not have any of the exhibits on the table, because I want the Reporter to have them all this evening.

Since it is a quarter to six, we will adjourn now and we will re-convene tomorrow morning in this room at 9:30 o'clock.

(Whereupon at 5:45 P. M. an adjournment was taken until Friday, October 14th, 1938 at 9:30 o'clock A. M.)

[fols. 263-265] BEFORE NATIONAL LABOR RELATIONS BOARD, SIXTH REGION

Case No. VI-R-31

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with the CIO

United States Court Room No. 4, Sixth Floor,
New Post Office Building,
Pittsburgh, Pennsylvania,
Friday, October 14, 1938.

The hearing in the above-entitled matter resumed at 9:30 o'clock a. m., pursuant to the adjournment on yesterday.

Before Tilford E. Dudley, Trial Examiner

APPEARANCES

Smith, Buchanan & Ingersoll, by John G. Buchanan, Union Trust Building, Pittsburgh, Pennsylvania, and J. Wesley McAfee and William J. Kyle, Jr., St. Louis, Missouri, appearing for the Respondent.

H. B. Holmes and William Lewis, Columbus, Ohio, appearing for Flat Glass Workers' Union.

Fred J. Hoffmeister, 208 M Broadway, St. Louis, Missouri, appearing for Crystal City Glass Workers' Union.

Robert H. Kleeb, 1030 Federal Building, Pittsburgh, Pennsylvania, appearing for the National Labor Relations Board (Regional Attorney).

[fol. 266] Proceedings

Trial Examiner Dudley: I am calling the hearing to order.

Mr. Holmes: Mr. De Shetler, will you take the witness stand, please?

ERWIN L. DE SHETLER a witness called by and on behalf of the petitioner, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Holmes:

Q. Will you state your name to the Reporter?
A. Erwin L. De Shetler.

Q. And where do you live, Mr. De Shetler?

A. Columbus, Ohio.

Q. And what is your business or occupation?

A. General secretary-treasurer of the Federation of Flat Glass Workers of America.

Q. And how long have you been secretary and treasurer of the Federation of Flat Glass Workers of America?

A. For the past three years.

Mr. Holmes: Will you mark this Petitioner's Exhibit No. 8 for identification?

(Whereupon, the document above referred to was marked as Petitioner's Exhibit No. 8, for identification.)

Q. I am handing you herewith a booklet which has been designated as Petitioner's Exhibit No. 8 for identification [fol. 267] which is marked on the outside of the cover "Constitution—By-laws—Ritual of the Federation of Flat Glass Workers of America." I hand you this exhibit and ask you what it is, if you know.

A. This is the constitution and by-laws of the Federation of Flat Glass Workers of America.

Q. And is that your present constitution and by-laws?

A. It is.

Q. And that has been your constitution and by-laws for how long?

A. Since 1935.

Q. Since 1935. And that was the constitution and by-laws as in effect at the time that you signed an agreement with the Pittsburgh Plate Glass Company; is that right?

A. That is correct.

Mr. Holmes: Now, for the purpose of the record, Mr. Examiner, I would like for you——

Trial Examiner Dudley: Pardon me. Are you offering that?

Mr. Holmes: At this time I would like to offer petitioner's Exhibit No. 8 as part of the record.

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection.

Trial Examiner Dudley: There being no objection, I admit the exhibit as offered.

(Whereupon, the document above referred to, previously marked as Petitioner's Exhibit No. 8 for identification, was received in evidence.)

[fol. 268] By Mr. Holmes:

Q. Mr. De Shetler, will you give to us just a brief summary of the organization and the formation of the Flat Glass Workers' Union, and the time of the formation particularly, to begin with, the purposes, the general structure of the Union as to how it was set up, and the eligibility of members generally.

A. Well, of course, the Federation is not a very old organization. It was formed following the enactment of the NRA, and at that time organizing efforts went on in all the plants of the Pittsburgh Plate Glass Company.

The company countered at that time with a company union proposition in each of their plants and in the Creighton and Ford City plants especially. They were a little successful at the beginning.

The workers there, a great number of them, went along with the company union.

They were not so successful, however, in the window glass plants of the company, because the proposition was turned down by all of the local unions, and the workers themselves were able to defeat the company unions in the other plants of the company, and I think they passed out of existence, oh, in the latter part of 1934.

We have had continual contractual relationships with this company since 1933, when the Pittsburgh Plate Glass Company met in conjunction with the Libby-Owens-Ford Glass [fol. 269] Company in Toledo, Ohio, and gave a written document of recognition to the workers in the window glass plants of the company and also the check-off system for a certain period of time, which it was to be for.

The workers in the Creighton and Ford City works were also given the benefit of this check-off in the early part of 1934 without an agreement, and our first real agreement with the Pittsburgh Plate Glass Company was negotiated in November 1934,—I believe that is the date, and since that time we have had a signed agreement with them down through the line.

Now, our organization is established to take in all workers working in and around flat glass plants with the exception of the members of the Window Glass Cutters' League, and, of course, the supervisory and clerical help not connected with production.

We have had a few strikes in the Pittsburgh Plate Glass Company prior to our negotiations and probably it was

through the attitude of the company concerning the Union from the beginning that we have in the plants of the Pittsburgh Plate Glass Company some of the most militant locals in our organization, and I kind of give the company credit for that, because of their labor attitude.

In some of the other plants where things were gotten with less difficulty and not so much opposition, of course, the locals are not as militant.

[fol. 270] Trial Examiner Dudley: May I suggest that this is not a C Case. We don't want to go into company unions or into alleged non-union activities on the part of the company. We may go on forever with these utterly irrelevant issues.

By Mr. Holmes:

Q. Now, directing your attention to the various conferences that you had with the Pittsburgh Plate Glass Company leading up to your signing an agreement during the various years that you have had agreements, just how were those agreements or contracts consummated, that is, where did you meet; who did you meet and how did you go about it?

A. Well, of course, Mr. Clause of the Pittsburgh Plate Glass Company was always present at the negotiations concerning the agreement negotiated.

The way it was generally gone about, the president of the organization wrote a letter to Mr. Clause in the beginning and said that we represented a great majority of their workers and he felt that the agreement ought to be negotiated and subsequently a meeting was arranged, and out of that meeting came our first agreement, and in subsequent years we have provided in our agreements for notice to be given so many days prior to expiration by either party in case an agreement was to be modified or extended or whatever it may be.

Q. And where would those conferences generally take place?

A. All of the—not all of the, but most of the Pittsburgh Plate conferences were held in Pittsburgh. There was one [fol. 271] that was held in Cleveland, Ohio, a joint conference with Libby-Owens-Ford, which broke up, and the workers from Pittsburgh came back to Pittsburgh and the workers from Libby-Owens-Ford went to Toledo, Ohio.

The last conference, when the last agreement was extended and renewed, was held in Cincinnati, Ohio.

Q. Now, as to the general structure of your Union and to the eligibility of members to become members of your organization, now, insofar as it applies to the Pittsburgh Plate Glass Company just what is your structure, general structure as to the elegibility of members who are employees of the Pittsburgh Plate Glass Company working in the six plants of the company?

A. Well, as I stated before, all workers are eligible to membership except those in a supervisory capacity or those on clerical not connected with production, and members of the Window Glass Cutters' League of America.

Q. Now, the Window Glass Cutters' League of America is an A. F. of L. organization; is that right?

A. That is correct.

Q. And those particular members are employees who are engaged in cutting of glass?

A. That is right; only in the window glass plants of the company.

Q. The window glass plants of the company?

A. Mt. Vernon, Norwood and Henryetta, Oklahoma.

[fol. 272] Q. Now, you are secretary and treasurer of the Federation of Flat Glass Workers of America, and are you in a position to know the number of members that you have who are employees of the Pittsburgh Plate Glass Company in their various plants?

A. The total number?

Q. The total number.

A. We have a record that is submitted to us each month from the local unions. I would not know the exact figures at the present time, but I would say in all of the plants of the company we have approximately 95 per cent, with the exception of Crystal City, where we are at the present time close to a majority.

Mr. Buchanan: If your Honor please, I move that the answer be struck out. It is not the best evidence. The Union's cards are the best evidence showing what men are in good standing.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: Of course, I agree with you that the cards are the best evidence, but I will let the answer stand.

By Mr. Holmes:

Q. Mr. De Shetler, are you familiar with the hours and working conditions that exist in the various plants of the Pittsburgh Plate Glass Company in which your members are employed?

A. Yes. The hours are set by contract between the [fol. 273] company and the organization, which provides for a normal work week of 36 hours in the non-continuous processes and 42 hours in the continuous processes.

Q. Are you also familiar with the working hours and the rate of pay being paid by the company at Crystal City?

A. Not as familiar as somebody else might be who will appear later.

Q. Now, are you familiar with the advertising policies of the Pittsburgh Plate Glass Company?

A. Somewhat, yes, because it happens that I sold the Pittsburgh Plate Glass Company an ad in our Flat Glass Workers Magazine at one time, and I took it up with Mr. Clause, who referred me to the advertising department.

Of course, he put in a good word for it and the ad was let to the organization.

Q. Where did you contact the advertising department of the company.

A. In the Pittsburgh offices of the company.

Q. With regard to the labor policies of the company, that is, the Pittsburgh Plate Glass Company, will you state just the procedure in making your contacts in order to take up any labor policies or conditions in any of the plants: just state what you did and as to whether you contacted the local officers, or would you contact the officers in Pittsburgh, or the general offices?

[fol. 274] A. Of course, our agreement provides a detailed report as to how to check up grievances. First, the employee takes it up either directly with his own foreman or with his representative in his department.

Then, if nothing is done, he takes it up with the man directly in charge of that department.

If nothing is done then, it is taken up with the plant manager, and in case it does not receive a settlement at that time it is taken up—or, supposed to be taken up by the general president of the Union with the general management of the company, which is Mr. Clause in this case.

Q. Prior to the signing of your agreement with the company, which was in 1934, who did you contact at that time relative to the general labor policies of the company?

A. Well, I would say that is a very hard question to answer. I think that most everybody has been afraid to take anything up before they had a contract.

Q. I know, but to get the contract in the beginning, who did you contact?

A. To get the contract?

Q. The first contract.

A. Mr. Clause, vice-president of the company.

Q. Now, I believe that you were in conference with the officials of the company at the time that the last contract was signed, and the one prior to that, were you not?

[fol. 275] A. Oh, yes, sir.

Q. That would be in 1936, wouldn't it?

A. 1937.

Q. And you were also in conference with the company in 1936 when that contract was made?

A. That is correct. We had a strike from 1936 until the first part of 1937.

Q. Now, in 1936, in your conferences with the company officials, was there anything said about Crystal City?

A. Oh, yes; surely. We asked them to include Crystal City because our agreements provided that the agreement cover members or employees of the company who are members of our Union, and it was not stipulated as to where those members might be, or anything else.

In fact, our contention at that conference was an agreement where we had members who were employees of the Pittsburgh Plate Glass Company who would come under that agreement, regardless of whether they were in the chemical division, or wherever they might be, and that is one thing that almost precipitated the strike in 1936 was that the Barberton plant of the company was taken over by the Federation of Flat Glass Workers in the interim of the year, and we did want from the company at that time a stipulation that they would recognize the Federation as a bargaining agent, and it was tried at that time to bring them under the agreement that would be negotiated, but [fol. 276] the company had an agreement of course, in effect with the Barberton workers until the following April, and finally a letter was gotten from the company that they would

recognize us or anybody else who represented those workers at the expiration of that contract, and then negotiations were resumed.

And, following that, the question of the Crystal City workers was brought out, and that is when the company named the plants which this agreement would cover.

Q. Well, what was said about the Crystal City plant, why it could not be included at that time.

A. Well, I believe the statement was made that they didn't believe that we had any members out there, and until we showed them something, why, of course, they would not recognize us for anybody at Crystal City; not even for our own members.

Q. Now, we had some testimony yesterday about the Cleveland conference in 1935. Will you just state what that conference was and what it was about, and what the result of it was?

A. Well, the Cleveland conference was a step towards something.

Q. Who was present?

A. The Pittsburgh Plate Glass Company and the Libby-Owens-Ford Glass Company.

Q. Both?

A. The workers' representatives.

[fol. 277] Q. That is, the members of the Federation of Flat Glass Workers of America?

A. That is right.

Q. And yourself?

A. I was there; yes.

Q. All right. Who else?

A. Mr. McCabe was president at that time.

Q. Now, what was the purpose of that conference?

A. The purpose of that conference was a stepping stone to something that we had been trying to get and which we now have, more or less, was an industry conference of the two largest companies in the flat glass manufacturing industry.

However, this first conference was not a success as a joint conference and it broke up, and the Pittsburgh workers returned here to negotiate and the Libby-Owens workers returned to Toledo to negotiate with that company for all of the plants affected.

Q. What were the issues?

A. There were five issues at that time. One was a closed shop; the other was a check-off system; another was 20 cents an hour increase in wages. I just don't recall the other two. Those were the three most important.

Q. What was the result of that conference?

A. The result of that conference was that the Pittsburgh workers went on strike.

[fol. 278] Q. And what was the result of the strike?

A. Five per cent increase in wages was secured following the strike.

Q. How about back pay?

A. Well, there was back pay, too—the agreement was retroactive to the first of February. Of course, there weren't very many people working.

Q. Which made the increase of wages payable from that date?

A. That is right.

Q. Now, do you know about whether or not——

A. That was February 1, 1935.

Q. That is right. Now, was that increase in pay and wages put in effect in all of the plants, if you know?

A. I couldn't definitely say.

Q. You don't know.

A. No.

Mr. Holmes: You may cross examine.

Cross-examination.

By Mr. Hoffmeister:

Q. Mr. De Shelter—what is your first name; I didn't get it?

A. Erwin, E-r-w-i-n.

Q. You say your organization has been in existence about three years?

A. No; since 1933.

Q. Since 1933?

A. That is correct.

[fol. 279] Q. When did your dealings with the Pittsburgh Plate Glass Company commence.

A. In 1933.

Q. In 1933?

A. Yes, sir.

Q. Since the very beginning of your organization?
A. That is right.
Q. When did your activities at Crystal City commence?
A. In 1934.
Q. In 1934?
A. That is right.
Q. How did those activities commence down there? What was done at Crystal City?
A. They were not given much opportunity to commence.
Q. Who went down there at that time?
A. We sent Robert McVay to Crystal City and the officials of the town ran him out of town.
Q. Well, the purpose of that was to commence organizing down there?
A. That is right.
Q. In behalf of the Federation of Flat Glass Workers of America?
A. That is correct.
Q. So he didn't stay there at that time?
A. No, sir; he didn't.
[fol. 280] Q. Did he go back at any later time?
A. Yes; he has been back there a number of times.
Q. When did he go back the second time?
A. 1935.
Q. Did he stay there at that time?
A. Not very long; a couple of days.
Q. There wasn't any organization effected at that time?
A. Well, we had some members. We had members there since 1934.
Q. Well, how many members did you have there in 1934?
A. Not very many, but a few.
Q. In 1935 how many members did you have there?
A. Well, probably half a dozen more added onto what we had in 1933.
Q. You say now you have a majority of the members of that plant as members of the Federation of Flat Glass Workers of America?
A. I didn't say that; no.
Q. Well, how many do you have now?
A. Someone else will testify to that later. I testified that I didn't know exactly.
Q. You did testify to that on direct examination?
A. I testified to what?

Q. As to the number of members that you now have at the Crystal City plant?

[fol. 281] A. I said we had close to a majority.

Q. All right; you had close to a majority?

A. That is right.

Q. But you would not want to be bound by that answer, would you, under oath?

A. It is in the record.

Q. And you still say you have close to a majority of the total number of members employed at that plant?

A. Certainly.

Q. Do you know how many members are employed at that plant now?

A. I think they reported here 1600 yesterday, or something to that effect.

Q. So, close to a majority would be close to 800?

A. "Close" could be anything.

Q. Sir?

A. "Close" could be anything.

Q. Now, your last activities at Crystal City commenced how long ago?

A. The last continuous?

Q. Yes, the last continuous.

A. December 1937.

Q. Assuming that you acted down there at the present time?

A. That is right.

Q. Now, at this 1936 conference that you testified to, [fol. 282] you said that you were advised then that you would not be recognized at Crystal City; is that correct?

A. That is right.

Q. Who advised you to that effect?

A. Mr. Clause.

Q. Mr. Clause?

A. Yes.

Q. And did he assign any reason for that advice?

A. Oh, I think he went on and cited what a nice community it was in Crystal City and how intellectual they were and the fact that they had a strike there some years ago and a lot of people got shot down, he didn't think they would want another organization out there, and things of that sort. It was brought out very clearly at that hearing, or at that meeting.

Q. But you always met with quite a bit of opposition in attempting to organize Crystal City; is that correct?

A. From the company; yes, sir.

Q. From whom?

A. From the company.

Q. Well, didn't you meet with some opposition from the men themselves down there at Crystal City?

A. I don't know of any. Of course, I have never been in Crystal City. I don't even know what it looks like.

Q. I see.

[fol. 283] A. Anything you ask me about Crystal City is things what I have heard.

Q. You don't re-lly know the conditions out there at all?

A. Not at all.

Q. At the present time you have recognition in how many plants of the Pittsburgh Plate Glass Company?

A. All except Crystal City.

Q. And this present proceeding was commenced at the instigation of the Federation of Flat Glass Workers of America?

A. This proceeding?

Q. Yes.

A. Surely.

Q. So that the purpose of this proceeding, then, is to bring in the Crystal City plant, isn't it?

A. No. We don't have sole bargaining rights with the company at the present time. We had a sixteen-week strike in 1936 and 1937 trying to make them see that we should have them, but we didn't get them at that time, either, so that we figured that probably this was the best way to get it.

Q. But you have recognition in all the plants except Crystal City; is that correct?

A. That is correct.

Q. And you don't have recognition in Crystal City plant at this time and you never have had; is that right?

A. I won't say we never did have. I say that the first [fol. 284] three agreements that we negotiated with the Pittsburgh Plate Glass Company gave us recognition at Crystal City, and we were only excluded from Crystal City in the 1936—starting with the agreement negotiated in February 1937.

Q. Well, were the Crystal City employees included in the first three agreements you had?

A. I would say they were; yes. They were not excluded.

Q. Did you have any organization down there at that time, at Crystal City?

A. We had a few members; not very many.

Q. Well, now you said a few members, Mr. De Shetler; what do you mean by that?

A. Well, probably a dozen.

Q. So you contend that a dozen of your members were included in the first three agreements that you had with the Pittsburgh Plate Glass Company?

A. I said the first ones. Of course, they increased as it went along.

Q. The number of members increased as they went along?

A. That is right. However, once in a while they got a little more courage and signed a card.

Q. And then sometimes they became a little bit discouraged and you would lose some members, is that correct?

A. I don't think any of them were discouraged for the efforts we put forth for the workers in Crystal City.

Q. Your membership fluctuated down there, didn't it?

[fol. 285] A. Not to any great extent; not any more than it would in any other plant of the company.

Q. But you never had any more than a dozen during the time the first three agreements were in effect?

A. Yes. I would say when we asked Mr. Clause to include Crystal City we had possibly 75.

Q. So you had possibly 75?

A. That *it* right.

Q. Do you know what the total number of men employed at that plant eligible for membership was at that time?

A. No; I don't.

Q. You wouldn't know?

A. No.

Q. Anyway, the number that you had as members of your organization was a very, very small number compared to the number that were employed?

A. That is right, sir.

Q. You were always trying to get new members down there, weren't you?

A. Certainly.

Q. And you met with this opposition from the employees; is that correct?

A. Not from the employees so much; no.

Q. Did you meet with any opposition from the community down there?

[fol. 286] A. From the business people.

Q. What is that?

A. Business people; yes.

Q. And still you insist that you ought to be down there?

A. Certainly. I think the workers want it.

Q. Although you have six plants at the present time where you have recognition, you want this plant, too; is that correct?

A. What is that?

Q. You want this plant along with your other six plants?

A. That is correct, as one unit for collective bargaining.

Q. Even though you know that the community is against you and, as you say, you met with opposition from the company, the company was against you, and that the employees were against you?

A. I never admitted the employees were against us.

Q. You said the company was against you, didn't you?

A. I think I did, yes, sir. Yes.

Q. Now, just what did the company do to make you believe that they were against you?

Mr. McAfee: Your Honor, I object to this question. I think we have been going too far in this proceeding along this line. We are not in a position to meet that. If the company is to be charged here, we ought to have an opportunity to show those things.

[fol. 287] Trial Examiner Dudley: Objection sustained.

By Mr. Hoffmeister:

Q. Even though the community is against you and some of the employees are against you down there, you still want recognition?

A. Yes; certainly.

You see, even though we have directly bargained for the employees of the Crystal City plant, everything that was obtained in our negotiations with the Pittsburgh Plate Glass Company was automatically transferred to the workers at Creighton, and whenever the workers in the other plants got an increase, why, it was given to the workers in Crystal City, so indirectly the Federation has always bargained for the workers at Crystal City.

Mr. Buchanan: If Your Honor please, I ask that the latter part of the answer be stricken out as a conclusion of the witness, and not justified by the testimony.

Trial Examiner Dudley: Motion granted.

By Mr. Hoffmesiter:

Q. Have you got your cards here showing the number of members that you have at the present time?

A. They will be presented by somebody else.

Q. They will be presented by some other witness?

A. Yes, sir.

Mr. Hoffmeister: All right. That is all.

By Mr. Buchanan:

Q. Mr. De Shetler, when did you first participate yourself in the negotiations with the Pittsburgh Plate Glass [fol. 288] Company?

A. In 1935, I believe, in November.

Q. So you don't know how the collective bargaining arrangements were made in 1933 and 1934?

A. I believe I have a very good knowledge of that; yes. I happened to be vice president of the organization at that time.

Q. You don't mean to infer that the reason for the strike in 1936 was the refusal of the company to let you negotiate for Crystal City employees, do you?

A. I didn't mean to imply that at all.

Q. I was not sure. Is it not a fact that the first time any demand for recognition as a bargaining agency for Crystal City employees was made was just prior to the negotiation of the 1937 agreement?

A. Oh, I think Crystal City has been mentioned a number of times.

Q. When did you first hear it mentioned?

A. Oh, I don't know.

Q. In the negotiations with the company?

A. Well, that was the first time I attended a conference in Pittsburgh.

Q. And that was in 1935?

A. Yes, in 1935.

Q. Isn't it a fact that no discussion of Crystal City came [fol. 289] up at your meeting in 1935, as Mr. Clause testified?

A. That no discussion came up?

Q. No discussion of representation at Crystal City came up in 1935?

A. It did; yes.

Q. What was the discussion?

A. I don't know. I have some transcribed minutes there.

Q. You may refresh your mind, if they are your notes.

Mr. Holmes: Do you want this to refresh your recollection?

A. Yes. I don't know what it says.

This was October 21, 1936.

By Mr. Buchanan:

Q. That is the first time, is it, that any mention of Crystal City came up, to your knowledge?

A. The first time we have any records, yes.

Q. Are these Window Glass Cutters eligible to membership under the constitution of your Federation?

A. No.

Q. I don't understand why you say that, when I read that membership clause of the Federation—and, I now read from the first section of the first article of the by-laws:

"Membership of the Federation shall be confined to all those employed in and working around factories or establishments engaged in the manufacturing, processing, and/or marketing of flat glass of any description for whatsoever [fol. 290] purpose used and other kindred glass industries not coming under the jurisdiction of any union affiliated with the American Federation of Labor."

I withdraw the question. I see that you exclude the American Federation of Labor in that by-law.

Your Federation is now affiliated with the Committee for Industrial Organization, is it?

A. That is correct.

Q. Are you confined by the CIO so that you cannot obtain members from the union affiliated with the American Federation of Labor?

A. That is not the policy of the CIO.

A. Well, do you mean to tell me that you are not free to accept a window glass cutter of the Pittsburgh Plate Glass Company as a member in your union at the present time?

A. You mean, if we just wanted to take him in, whether we could take him in or not?

A. That is it. Could you take him in?

A. Oh, I suppose we could under any kind of a constitution.

Q. Well, you couldn't under this constitution. I will add, in the form of a question:

Under the constitution which the Federation of Flat Glass Workers *excepted* from the American Federation of Labor, you couldn't take in Window Glass Cutters.

A. We couldn't take them in under any constitution.

[fol. 291] Q. Wouldn't you take him in now if he were willing to be a member?

A. No, sir. We have an agreement between us.

Q. Yes; is that agreement in writing?

A. Yes.

Q. Have you got a copy of it here?

A. I don't know whether I have or not; I might have. If I haven't, I have one over at the hotel,—no, I don't seem to have a copy.

Q. Didn't your Federation take over a union of the A. F. of L. at the Barberton plant of the Pittsburgh Plate Glass Company?

A. We took over a lot of unions.

Mr. Holmes: I object. That is immaterial.

Mr. Hoffmeister: He testified to it on direct examination.

Mr. Buchanan: The point of this examination, if Your Honor please, is to show that the American Federation of Labor has plants, has plant organizations in the Pittsburgh Plate Glass Company plants, whose existence prevents the CIO from representing all workers; also that the CIO does not represent the wishes of those workers, glass cutters, because they won't join the CIO; also that the CIO is engaged in trying to get them to join the CIO, because it took over a union of employees of the Barberton plant of the Pittsburgh Plate Glass Company.

[fol. 292] There is no such thing of only one union of employees of the Pittsburgh Plate Glass Company.

Trial Examiner Dudley: Off the record.

(Discussion off the record.)

Trial Examiner Dudley: He may answer. Please read the last question, Mr. Reporter.

(Question read.)

A. Well, all of the Unions affiliated with the Federation at one time belonged to the A. F. of L. and now belong to the CIO.

By Mr. Buchanan:

Q. Please answer the question directly, Mr. De Shetler. It is very clear.

Did you or didn't you take over a union of the A. F. of L. at Barberton; the chemical division of the plant?

A. They voted to disband their A. F. of L. charter and become affiliated with us; yes.

Q. Would you do the same if the glass cutters voted to abandon the A. F. of L. charter and affiliate with you.

A. You mean, if all of the locals did?

Q. If any one of the locals did.

A. No.

Q. Suppose that all of the locals so voted; would you take them over?

A. Certainly. That would be their business.

Trial Examiner Dudley: May I ask with reference to [fol. 293] Barberton, was it the flat glass workers that took over the A. F. of L. union?

A. The membership was A. F. of L. Federal Labor Union.

Trial Examiner Dudley: Are they now members of the Flat Glass Workers of America?

A. No; they are members of the United Mine Workers, District No. 50. We turned them over to them.

By Mr. Buchanan:

Q. When you say "We turned them over" to the United Mine Workers, you mean the Federation of Flat Glass Workers?

A. Yes. They are now members of District 50 of the United Mine Workers.

Q. Is it right to say that your policy is to take in any employee of the Pittsburgh Plate Glass Company who is willing to affiliate with the Federation of Flat Glass Workers?

A. Of course, our contract does not exclude them; no. Our contract does not exclude anybody.

Q. Is it your policy to take them in?

A. Well, to a certain extent; yes.

Q. In pursuit of your policy, have you been able to obtain a majority of the employees at the Crystal City plant?

A. Do we have a majority at the present time, you mean?

Q. I say, have you been able to get a majority of the employees of the Crystal City plant in pursuit of the policy to which you testified?

[fol. 294] A. I will let somebody else answer that question later on. I am not altogether too familiar with Crystal City. I have never been there.

Q. Well, do you know the number of members within 100, in your union?

A. In Crystal City?

Q. At Crystal City; yes.

A. Oh, I should judge it would be anywhere from between five to eight hundred.

Q. You mean, you don't know within a range of 300, yourself?

A. No; I wouldn't know.

Q. Mr. De Shetler, do you mean to say that the reason for the strike in 1936 was because the Pittsburgh Plate Glass Company would not grant sole collective bargaining rights to the Federation of Flat Glass Workers?

A. The first demand of the union was a closed shop; it was later toned down to sole bargaining rights, which the company would not grant.

Q. Sole bargaining rights for all employees of the Pittsburgh Plate Glass Company?

A. That is right. The company would not grant it.

Q. And it is your recollection that that caused the strike?

A. I say it was for a closed shop and it was toned down, when we finally made the settlement, to a demand for sole bargaining rights.

[fol. 295] Q. Isn't it a fact that the demand for a closed shop was toned down to a demand for preferential union rights; not for sole bargaining rights for all of the employees?

A. No. Mr. Clause says those are the same things.

Q. I beg your pardon?

A. Mr. Clause says those are the same things.

Q. I am asking you, do you think they are the same things?

A. Practically.

Q. Now, which was it, a demand for preferential union rights or a demand for sole bargaining rights for all employees?

A. That led to the strike?

Q. That led to the strike.

A. The closed shop was the first demand that led to the strike. After the strike was in progress, why, it was asked for sole bargaining right, and they wouldn't even grant those.

Q. How was that demand made; was it made in writing?

A. Yes.

Q. Have you got a copy of that writing here?

A. I don't think I have a copy of it here, no.

Q. Can you produce a copy of the writing?

A. Perhaps I can. I think I have it over at the hotel; I am not certain.

Q. Will you produce it after lunch?

A. If I can, yes, sure.

[fol. 296] Mr. Buchanan: If Your Honor please, if this demand cannot be located by the witness for inspection after lunch today, I ask leave to introduce it in the record later, if it is later produced.

Trial Examiner Dudley: All right.

By Mr. Buchanan:

Q. When did the Federation of Flat Glass Workers of America turn over the union at Barberton to the United Mine Workers?

A. In August, 1937.

Q. When did the union at Barberton accept the Charter from the Federation of Flat Glass Workers?

A. Sometime in 1936.

Q. Sometime in 1936?

A. Yes, sir.

Mr. Buchanan: That is all.

By Mr. Hoffmeister:

Q. Just one other question. Mr. De Shetler, how does the Federation of Flat Glass Workers get its existence? Is it a voluntary organization, or is it an incorporation, or just what kind of a legal set-up do you have?

A. Voluntary organization.
Q. Voluntary organization?
A. Certainly.

Mr. Hoffmeister: That is all.
Mr. Holmes: That is all.

[fol. 297] Robert McVay, a witness called by and on behalf of the Petitioner, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Holmes:

Q. Will you state your full name, please?
A. Robert McVay.
Q. How do you spell your last name?
A. M-c-V-a-y.
Q. Where do you live, Mr. McVay?
A. Crystal City, Missouri—Festus, Missouri.
Q. What is your occupation or business?
A. Organizer for the Federation of Flat Glass Workers.
Q. And before you became such organizer, what was your occupation?
A. I was an employee of the Pittsburgh Plate Glass Company, of the Henryetta, Oklahoma, plant.
Q. Are you a member of the Henryetta local?
A. I am.
Q. Of Flat Glass Workers?
A. Yes, sir.
Q. And also district president of that particular district?
A. That is right; I am.
Q. And also a member of the Board of the Federation of Flat Glass Workers?
A. Yes, sir.
[fol. 298] Q. And you are a member of the Board by reason of your constitution and by reason you are district President of your district; is that right?
A. By election; yes, sir.
Q. By election by the members?
A. That is right.

Q. And those members at Henryetta, Oklahoma, are all employees of the Pittsburgh Plate Glass Company, are they not?

A. That is right.

Q. Now, you have with you the membership roll of the Henryetta Local?

A. I have it there on the desk; yes.

Mr. Holmes: For the purpose of identification, will you mark this Petitioner's Exhibit No. 9?

(Whereupon, the document above referred to was marked as Petitioner's Exhibit No. 9, for identification.)

By Mr. Holmes:

Q. I am handing you, Mr. McVay, Petitioner's Exhibit No. 9, and I will ask you if you know that that is.

A. It is a record of the membership of the Henryetta Local No. 3, from January 1938 until September 1938, September 30th.

Mr. Buchanan: Will you repeat the dates; I couldn't hear you.

A. January 1938, inclusive, February, March, April, May, [fol. 299] June, July, August and September 30th, 1938.

Mr. Holmes: I am endeavoring—off the record.

(Discussion off the record.)

Trial Examiner Dudley: You may cross examine as to that.

Cross-examination.

By Mr. Buchanan:

Q. Mr. McVay, when is a member of a Local in your Federation in good standing, so far as the payment of dues is concerned?

A. So far as the payment of dues is concerned? Three months.

Q. If three months——

A. If he is three months in arrears, he is not in good standing.

Q. Do you know which of the men listed on the paper in your hands are three months in arrears in dues?

A. Yes.

Q. Do you require dues of those who are unemployed?

A. We don't require dues of those who are unemployed, no.

Q. What do you require of the unemployed in order that they may remain in good standing?

A. They report to the financial secretary once every thirty days.

Q. I presume that some of the men listed on the sheets in your hands are unemployed, aren't they?

[fol. 300] A. Yes.

Q. Do you know which of those men have failed to report within 30 days?

A. Yes. I don't have the records, if that is what you are asking for—isn't it? You want a complete picture of it?

Q. Yes.

A. I am not in charge of the records. The men have not reported to me but I do know that men are unemployed and are either in good standing or are not.

For instance, the rules of the Henryetta Local were suspended during the shut-down from April until recently, and they did not require the men to report in that manner.

Q. Who has the records of the Henryetta Local, Mr. McVay?

A. Charles Oliver, financial secretary.

Q. Is he here?

A. He is not here.

Mr. Buchanan: Off the record.

(Discussion off the record.)

Trial Examiner Dudley: I declare a 10-minute recess.

(A short recess was taken.)

Trial Examiner Dudley: I declare the hearing in order.

Direct examination (Continued).

By Mr. Holmes:

Q. Handing you petitioner's Exhibit No. 9, Mr. McVay, I will ask you to state what this instrument is, or this exhibit.

[fol. 301] A. This is a record of dues paid by members of the Henryetta Local, employees of the Pittsburg Plate Glass Company.

Q. And does that record show the members that are in good standing in the Henryetta Local between January 1st and September 30th?

A. It does.

Q. And on September 30th, how many members did the Henryetta Local have in good standing?

A. 259.

Q. On January 1st how many members did they have in good standing, if you know?

Trial Examiner Dudley: May I interrupt? Doesn't the record speak for itself?

Mr. Ho-mes: That is right.

Trial Examiner Dudley: He is getting all his knowledge from the records, isn't he?

Mr. Ho-mes: That is right.

Q. This is the complete record of the members of your local from January 1st, to and including September 30th, 1938, is that right?

A. It is.

Mr. Holmes: I wish to offer Petitioner's Exhibit No. 9 in the record.

Mr. Hoffmeister: I want to register an objection to that for the reason this witness testified he was not in charge of the records and that Mr. Oliver was the custodian of these [fol. 302] records, and for that reason his testimony would amount to merely hearsay as to what this record contains.

Trial Examiner Dudley: Do you wish to cross examine him any on that point?

Mr. Hoffmeister: Yes. I will cross examine him now on that.

Trial Examiner Dudley: All right.

Cross-examination.

By Mr. Hoffmeister:

Q. Mr. McVay, are these records kept in your possession?

A. They are kept in the Local Union's possession.

Q. And what do you have to do with the Local Union?

A. At the present time I am just a member.

Q. You are merely a member?

A. That is right.

Q. Do you have anything to do with making up that record?

A. I do not. I examine them from time to time; any time that I wish to.

Q. With reference to the information contained in this record, where do you get that information from?

A. Off of the dues ledger of the local union.

Q. And where is that dues ledger kept?

A. It is kept by the financial secretary.

Q. And you don't make up the record yourself, do you?

A. I do not.

[fol. 303] Q. Who makes up the record?

A. Charles Oliver, financial secretary.

Q. And where is he located?

A. Henryetta, Oklahoma.

Q. Does he make up the record, himself, Mr. Oliver?

A. Yes, he does.

Q. And he is not here today, is he?

A. He is not here.

Q. You don't know whether this is a true record or not, do you?

A. Yes, I do.

Q. Well, how do you know it is a true record?

A. I know that the men's names are on the record; I know their union affiliations; I know how they felt about the union; I know that I examined the records for a number of three or four years at various times, at times when the books were audited; I visited the local two or three times two or three weeks back, and they are still members of the organization.

Q. Then what you know is what you read off the books yourself; is that right?

A. That is right.

Q. You had nothing to do with making the record at all?

A. That is right.

Q. And you would not attempt to say that everything that [fol. 304] was contained on this record was correct?

A. Yes, I would say it was correct.

Q. Well, all the information you got about this record is what somebody else told you or what you read from the records of somebody else; isn't that right?

A. No. I examined the record myself, and it carries the seal of the local union, and I feel when that seal is placed on those records that it means that they have been carefully checked by Brother Oliver, who is financial secretary of our Local.

Q. In other words, the fact that this seal of the local union is on that record makes you testify today that those are authentic records?

A. I feel that it is my duty to testify to that.

Q. It is your duty to testify that the records are authentic because the seal of the Local Union is on them?

A. Because of my knowledge of the people there and my acquaintance with Mr. Oliver and his signature attached to the records.

Mr. Hoffmeister: I submit, if the Court please, that this man doesn't know that these men are authentic. He says they are authentic from the fact that the seal of the local union is attached. He had nothing to do with making up the record himself; merely what he read from other records, and the fact that he believes they are authentic.

Trial Examiner Dudley: Where did you get these records, [fol. 305] Mr. McVay?

A. I got them out of the national office of the Federation in Columbus. They had been mailed there with a letter by Charlie Oliver with a letter explaining the different phases of the report to the national office for this hearing.

Trial Examiner Dudley: Who gave the records to you?

A. Mr. De Shetler, the secretary-treasurer of the organization.

Trial Examiner Dudley: Did you see where he got them from when he gave them to you?

A. Yes, sir.

Trial Examiner Dudley: Where did he get them?

A. Off from his desk.

Trial Examiner Dudley: Was the letter from Oliver still attached?

A. Yes.

Trial Examiner Dudley: Did you read the letter?

A. Yes, I have the letter with me.

Trial Examiner Dudley: Did you see his signature?

A. Yes.

Trial Examiner Dudley: Do you know Oliver's signature when you see it?

A. Yes, sir.

Trial Examiner Dudley: Was it his signature on the letter?

[fol. 306] A. It was his signature.

Mr. Hoffmeister: That letter is not in evidence, either, if

the Court please. Anybody can get these records and give the same testimony that this man is giving, it seems to me.

Trial Examiner Dudley: Well, I will admit them for such weight as they may have.

(Whereupon, the document above referred to, previously marked as Petitioner's Exhibit No. 9 for identification, was received in evidence.)

Mr. Hoffmeister: All right.

Mr. Holmes: Do you have that letter with you?

Mr. Buchanan: Perhaps, your Honor, I should state the position of the company in regard to this matter, but I am not going to at this time because there has been no offer made as yet.

Mr. Holmes: Yes, I offered the exhibit.

Mr. Buchanan: I beg your pardon. I make no objection on behalf of the company, not because I think the testimony is competent, but because the company does not wish to contest the right of the Federation of Flat Glass Workers to act as representative for collective bargaining at any plant other than Crystal City.

Under these circumstances we think it immaterial to put on the record just what number of union members there may be among the employees of the company at other plants.

[fol. 307] Mr. Hoffmeister: Off the record.

(Discussion off the record.)

Mr. Buchanan: For the record, if it will aid in shortening the proof of membership of unions, or do away with the necessity, I should say, of proof of membership of the unions of the Federation of Flat Glass Workers at other plants than Crystal City, the company is willing to admit that if the appropriate bargaining unit should ultimately be determined to be all of the Flat Glass Workers with the exceptions named in the petition, that the majority of such workers are members of the Federation of Flat Glass Workers.

Mr. Holmes: Read the stipulation; I don't know whether I just heard it right.

(Stipulation read.)

Mr. Buchanan: The exceptions named in the petition are clerical and supervisory employees and members of the Glass Cutters League of America. The petition by amend-

ment confines clerical employees excepted to those not directly connected with production.

Trial Examiner Dudley: Now, I think, Mr. Buchanan, your statement is very clear. To be sure there is no possible misunderstanding, let me ask you this:

Is it your intention to say that the company is willing to admit that the Flat Glass Workers represent a majority of all the employees in the appropriate unit, that is, all the employees in the proper classifications in all of the plants, [fol. 308] including the Crystal City plant as well as the plant at Creighton and the two plants at Ford City and the plants at Henrietta, Mt. Vernon and Clarksburg?

Mr. Buchanan: I am not quite certain what Your Honor means because of your allusion as to an appropriate unit.

The company's position is that an appropriate unit for collective bargaining will not include the employees at the Crystal City plant, if a majority of the employees at that plant are not willing to be represented by the Federation of Flat Glass Workers which represents, we will admit for the purpose of this proceeding, the majority of the employees at each of the other plants named in the petition.

Trial Examiner Dudley: It is 12 o'clock. Why don't we adjourn for lunch and see if we can work something out?

Mr. Buchanan: I am content.

Mr. Holmes: I want to say for the purposes of the record that we would be willing to shorten the hearing by submitting for the Board's Examination as exhibits the membership lists of the members of the Federation of Flat Glass Workers of America who are employed in all of the plants of the Pittsburgh Plate Glass Company as contemplated in the petition as filed in this hearing.

Mr. Buchanan: Are you content, then, that the records which you propose to offer have probative value in themselves, and if not, for what purpose are they offered?

[fol. 309] Mr. Holmes: They are merely offered for the purpose of informing the Board as to who the memberships are, that is, as to who the members are, and to give the Board an opportunity, if they so desire, to check our membership lists with the payroll lists of the company to establish whether or not our particular member that we claim is an employee of your company.

Trial Examiner Dudley: May I ask if you have at the other plants the financial treasurer present who will be able to identify the records personally?

Mr. Holmes: We have.

Trial Examiner Dudley: This is the only plant of which you don't have the financial secretary?

Mr. Holmes: As I understand it, that is the only plant, but we also have Mr. De Shetler here, the national secretary-treasurer, who can identify that and who has the Federation receipts for the dues that have come in and the correspondence with that particular report, and we are able, I think, by sufficient proof, to establish the authenticity of that particular record of the Federation as to membership in the Henryetta Local, sufficiently to justify the Board in accepting it as a true instrument. We are in a position to do that.

Trial Examiner Dudley: Shall we adjourn, then, until one o'clock?

Mr. Buchanan: Yes.

[fol. 310] Trial Examiner Dudley: I will announce a recess at this time until one o'clock.

(Whereupon, at twelve o'clock, p. m., a recess was taken until one o'clock, p. m., of the same day.)

[fol. 311] After Recess

(The hearing was resumed at 1:00 o'clock P. M., pursuant to adjournment).

Trial Examiner Dudley: I call the hearing to order.

Stipulation

Mr. Buchanan: For the purpose of this proceeding and for no other purpose, the Pittsburgh Plate Glass Company stipulates it to be a fact that the Federation of Flat Glass Workers of America includes in its membership a majority of all production and maintenance employees employed in the Company's plate and safety glass plants, located at Creighton and Ford City, Pennsylvania, and Crystal City, Missouri, and its window glass plants, located at Mount Vernon, Ohio, Clarksburg, West Virginia and Henryetta, Oklahoma, except clerical employees not directly connected with production and supervisory employees in all of the plants aforementioned, and except those employees who are members of the Window Glass Cutters' League of America, affiliated with the A. F. of L. employed in the window glass plants of the Company at Mount Vernon, Ohio, Clarksburg, West Virginia, and Henryetta, Oklahoma. This stipulation

is not to be construed as admitted that the said Federation includes in its membership a majority of employees as aforesaid in the Company's plants at Crystal City, Missouri.

It is stipulated, however, that the said Federation has in its membership a majority of employees as aforesaid at [fol. 312] each of the other plants above mentioned.

Mr. Hoffmeister: On behalf of the Crystal City Glass Workers' Union I will join in that stipulation.

Mr. Holmes: On behalf of the Federation of Flat Glass Workers of America, I join in the stipulation.

Mr. Kleeb: On behalf of the National Labor Relations Board, I join in the stipulation.

Mr. Holmes: With leave of the Examiner and by agreement of the parties and the attorneys, the Petitioner is hereby given leave to withdraw that Exhibit No. 9, and does hereby withdraw the same.

Trial Examiner Dudley: Is there any objection to the Petitioner's withdrawing the Exhibit?

Mr. Buchanan: No objection.

Mr. Hoffmeister: No objection.

Trial Examiner Dudley: There being no objection, I grant leave to the Petitioner to withdraw Petitioner's Exhibit No. 9. It may be taken physically from the record.

ROBERT MCVAY, a witness previously sworn and examined, resumed the stand and testified further as follows:

Direct examination.

By Mr. Holmes:

Q. I believe, Mr. McVay, at the close of this morning's session that we were discussing the membership roll or [fol. 313] roster of the Henryetta Oklahoma, Local. Is that right?

A. That is right.

Q. Now, will you state to the Examiner your connection with the Federation of Flat Glass Workers of America as an organizer. Just what are your duties.

A. What are my duties?

Q. Oh, just in a general way.

A. I have been connected with the Federation of Flat Glass Workers since July of 1933, and in May of 1934 I was

elected as a District officer of the International organization. In that the duty of the district officers is to organize new Locals of the organization.

Q. As such organizer have you had occasion to visit Crystal City, Missouri?

A. In July of 1934 I was attending a Board meeting in Columbus, Ohio, and on my return to my district in Henryetta, Oklahoma, I stopped in at Crystal City, Missouri. I knew that the plant had not been organized, and I just stopped there on an informal visit to find out what the conditions were there and why it was that the employees were not organized into such organizations as ours.

Q. And what information did you obtain?

A. I found that they had been offered a company Union or an employee representation plan there in 1933 at the same time as the rest of the Pittsburgh Plate Glass Com- [fol. 314] pany plants were offered a Company Union.

Mr. Hoffmeister: I object to the answer on the ground of hearsay.

Trial Examiner Dudley: What is your purpose, Mr. Holmes?

Mr. Holmes: It is merely leading up to the proof of the Company Union, the condition that existed at Crystal City being controlled from the Central Office here in Pittsburgh.

Mr. Hoffmeister: If that is the purpose, I object further, because that is not competent or relevant to any issue in this proceeding. The only issue on trial in this matter is to determine what the appropriate Unit is for collective bargaining. Now, if we are going into that matter it is certainly collateral, and you cannot open the door for a lot of collateral matter. Certainly the Crystal City Glass Workers Union would be compelled to answer it, and the Company would be compelled to answer it, also.

Trial Examiner Dudley: You said merely that you wanted to approve a Central labor policy?

Mr. Holmes: That is right.

Trial Examiner Dudley: Mr. Clause testified to that yesterday.

Mr. Holmes: This is merely corroborating, and relating to the conditions that have been found in that particular locality. We had some testimony of the nature of that particular community as to intelligence and so forth and so [fol. 315] on, and I should think that his testimony would

probably be just as important as that of the members of the Company, probably, as to their ideas.

Trial Examiner Dudley: I will sustain the objection.

Mr. Holmes: I am asking for information, does that mean that through witnesses of the Union that we are unable to show the dealings and policies of the Company insofar as it applies to Crystal City?

Trial Examiner Dudley: Off the record.

By Mr. Holmes:

Q. I withdraw that particular question, which is probably incorrect. Did you have occasion to visit the plant while you were in Crystal City?

A. Yes, I went over to the office. A friend of mine with me went in the office and asked for a pass to go through the plant. He was told to come back later, that they would have the pass for him, I think, at two o'clock. In the meantime I discussed the possibility of organizing with the employees around the employment office and on the corner there, and several of them asked me to meet them at the house, that they didn't want to be seen talking in front of the Company office, that they would like to have an organization there but they were fearful of losing their jobs if the officials of the Company saw me talking to them on Company property. I didn't go back to go through the plant. I arranged with the Committee there to secure a [fol. 316] hall to hold a meeting a week later, and I left. As I said, I was not there on official business; it was more or less merely to sound out the employees to see how they felt. We made an effort to secure a hall from one of the doctors or dentists in the community, and he refused on the ground that the Company wouldn't like it.

Mr. Buchanan: Objected to as hearsay and also as not responsive to any question on the record. He could make a speech here and we don't want what the speech is going to be because there is no question in the record.

Mr. Holmes: He is testifying to general conditions.

Mr. Buchanan: I would object to a question about general conditions.

Trial Examiner Dudley: I will let you answer, but your answer should be confined to what you saw and what you heard.

By Mr. Holmes:

Q. Just what you saw and what you did yourself.

Trial Examiner Dudley: You can tell us what the Doctor said, but don't tell us what you think the doctor had in mind when he refused you the use of the hall, if that is what happened.

A. The doctor told me that he was running for State Representative in the State of Missouri, and that he felt that if he allowed us to use the hall at all that it might go against him, and he was depending upon the officials of the Company for support, and he might lose their support if [fol. 317] he allowed us to use the hall for a Union meeting.

Mr. Buchanan: I move that that be stricken out as incompetent and irrelevant.

Trial Examiner Dudley: Is that what he said?

The Witness: That's what he said.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: Objection overruled.

By Mr. Holmes:

Q. Then what happened?

A. I left the Committee in charge. I had to return to Henryetta.

Q. When you say you left the Committee in charge, what do you mean by that?

A. Well, there were several fellows that I had been discussing with—

Q. When you say "fellows" do you mean employees?

A. Employees of the Pittsburgh Plate Glass Company interested in forming a Union. I asked them to make arrangements to go ahead and get a hall, we would try to get a hall for a later date. When I returned to Henryetta I received a telegram from one of the fellows from De Soto, Minnesota, stating that they were unable to secure a hall to hold a meeting.

Mr. Hoffmeister: I object to what somebody told him and wires, under the hearsay rule. The wires would be the best evidence if he got wires. The other witnesses could be brought here.

[fol. 318] Trial Examiner Dudley: I will let him testify as to what he saw and heard and what reports he got in connection with his business.

Mr. Buchanan: I also object to his testimony as to the contents of the telegram. The telegram itself could be produced.

By Mr. Holmes:

Q. Have you the telegram with you?

A. No, I have not.

Q. All right. As a result of that telegram what did you do?

A. I had no other connections then with that Local except correspondence from time to time with that group of employees until January of 1935.

Q. Then in January of 1935 what did you do?

A. I went in there to call a meeting and contacted some of these sick people that I hadn't contacted in 1934, and I called a meeting in the Red Man Hall in Festus. A copy of the Plate Glass Code was given out by the N. R. A., and I explained that I wanted to explain this to the workers over at the Glass Plant. Notices were put on the post in Crystal City in front of the Plant, and when the meeting took up that night about 7:30, Mr. Oakes, the Superintendent was there.

Q. Did you see the superintendent there?

A. The superintendent of the Pittsburgh Plate Glass Company plant at Crystal City came to the meeting, and [fol. 319] Mr. Balsinger, the Assistant Superintendent also came. Some of the employees that were there told me while there in the presence of Mr. Oakes and Mr. Balsinger that they had sent word through the plant that they were going to attend that meeting, and anyone attending that meeting would lose their job.

Mr. Buchanan: I move that remark be stricken out as hearsay.

Trial Examiner Dudley: Who told you that?

The Witness: I don't care to divulge the name; one of the employees there at the plant. It was common knowledge throughout the factory there, the employees, that it was true at that time.

Mr. Buchanan: I move that that last remark be stricken out as a conclusion of the witness, a conclusion based on nothing that has been testified to here.

Mr. Hoffmeister: I join in the objection.

Mr. Buchanan: I would like to call for an offer of proof on this whole line of questions. Is it proper to offer proof of a complaint, with no notice of any charge?

Mr. Holmes: It is merely to show the conditions at Crystal City.

Mr. McAfee: May I call the Examiner's attention to the fact that if this particular line is directed to conditions, this refers to two or three years ago, and although some history might explain present conditions, yet going so far [fol. 320] back into former conditions, certainly can be of but little help in these proceedings.

(Further discussion off the record).

Trial Examiner Dudley: On the record. I will grant the motion to strike.

By Mr. Holmes:

Q. You may continue from there. That is at that meeting you said the superintendent and the assistant superintendent attended your meeting. Did you have any conversation with them?

A. Yes, Mr. Oakes and I had quite a lengthy conversation. Mr. Balsinger did most of the talking, and of course he was opposed to organized labor. He stated that there had always been labor racketeers, racketeers in the labor movement, and that he had had lots of experience with the miners in Pennsylvania and West Virginia, and he didn't feel that employees of the Company should belong to labor organizations.

Mr. Buchanan: I move that that last statement be stricken from the record as being irrelevant to the issue here. The question here is simply that so far as the Crystal City men, the employees, are concerned, what do the employees want?

Mr. Hoffmeister: I join the objection.

Mr. Buchanan: Whether this witness thinks they would have agreed with him except that somebody else thought differently, is entirely irrelevant. They have a right to their own views.

[fol. 321] Trial Examiner Dudley: I will let it stand, with the distinct understanding that the ruling on my part does not go to show any action by the Company to inter-

fere with the Union Activities. That is not in issue here, and I admit it only to give power to the general picture at Crystal City, in which both sides seemed to be interested.

By Mr. Holmes:

Q. Proceed.

A. We had a conference at that time in Cleveland, as I said before, a wage conference for the employees.

Mr. Buchanan: I insist that the witness should give answers to questions to which we can make objection, and not go on ad libitum.

By Mr. Holmes:

Q. You are at the meeting now that you held there in the hall?

A. That is right.

Q. Now, I ask you to continue with the conversation that you had with Mr. Oakes, if you had any such conversation.

Mr. Buchanan: I object as incompetent and irrelevant to the issue.

Trial Examiner Dudley: Objection overruled.

Mr. Buchanan: I call for an offer.

The Witness: Mr. Balsinger said that from this conference that was held in Cleveland, that he could see that the labor leaders didn't have the interests of the men at their plant at heart. The Union paper asked for a closed [fol. 322] shop.

Mr. Hoffmeister: I object. How could that be binding on anybody at this time?

Trial Examiner Dudley: It isn't binding; is that what he said?

The Witness: That's what Mr. Balsinger said.

Trial Examiner Dudley: I am accepting it for what he said. It is not binding.

By Mr. Holmes:

Q. Go ahead.

A. He went on——

Q. Who?

A. Mr. Oakes interfered at that time, and he questioned two or three of the men at the meeting, too. He said, "Fellows, haven't I always gotten you everything that I could

down there? Haven't you got every raise that the other plants in the Company got?" And they said, "Yes, that's right." And he said, "Well, you can stay here. I think Mr. Balsinger and I would be better off out of the meeting now. It's getting late, and I think Mr. McVay possibly has some things to say to you." And at that time he left. Two of the men that did stay there got a copy of the Plate Glass Code which I gave them at the time.

Q. After that meeting then that you had,—in 1935, wasn't it?

A. Yes, sir, January.

Q. What was the result of that meeting, if there was any [fol. 323] result, with respect to the organization in Crystal City?

A. Why, there wasn't any direct result.

Q. Then when next did you visit Crystal City, and when was an organization finally established there?

A. The next visit to Crystal City was in 1936.

Q. 1936, what was the occasion of that visit?

A. I was approached by "Red" Fitzgerald, another Company employee, an assistant superintendent, I believe, is the correct title, and editor of the "Glass Rays", that is the Company official publication. He informed me that the Company had a Committee selected in Crystal City to run me out, and if I got over in Festus, he had arrangements——

Mr. Buchanan: Just a moment, I am making an objection. I move that the remarks of the witness, which is not answering any question, be stricken from the record as altogether irrelevant and immaterial to the issue before your Honor.

Trial Examiner Dudley: I will let it stand.

Mr. Holmes: You may continue.

A. They informed me that they had a Committee in Crystal City to run me out and if I left Crystal City and went to Festus, that they had arrangements for a Committee over there also, to take care of me. I followed Mr. Fitzgerald over into Festus. I wanted to see where he was going; I didn't know at the time that he was assistant superintendent. He approached me then as an employee eligible to membership in our organization and made state- [fol. 324] ments that he could possibly be one of the leaders in our organization when the organization was established. Anyhow, I went over in Festus, and the town Marshal there

told me that the officials in the bank wanted to see me, he said of the Bank of Festus. At this meeting there was——

Mr. Buchanan: What meeting? What meeting?

The Witness: The town Marshal told me that Mr. Porter of the Citizens' Bank of Festus wanted to meet with me, wanted to see me.

Mr. Hoffmeister: I object to anything that the town Marshal told him, because that is purely hearsay and couldn't be relevant to anything in this case.

(Discussion off the record.)

Mr. Holmes: I will agree that that is too far off and we shouldn't get too much hearsay into the record.

By Mr. Holmes:

Q. What was the final result of these various conferences that you had at Crystal City?

Mr. Buchanan: With whom?

By Mr. Holmes:

Q. With the general officials of the plant and with the employees relative to the organization of a Local in Crystal City, affiliated with the Federation of Flat Glass Workers of America? Have you got such a Local in Crystal City?

A. Yes, Local No. 63.

[fol. 325] Q. How long have you had such an organization there?

A. Since April, the charter was issued in April of 1938. The Local's formation was in February of 1938.

Q. From the cards and from your own knowledge, do you know how many of the employees at Crystal City are members of the Union, or Federation of Flat Glass Workers of America?

Mr. Buchanan: If you know.

By Mr. Holmes:

Q. Do you have the cards?

A. Yes.

Q. Do you know how many members you have in Crystal City?

A. Yes.

Q. How many in good standing?

Mr. Buchanan: Objected to because it is a matter of record. The record will be the best evidence.

Trial Examiner Dudley: I will let him state.

By Mr. Holmes:

Q. How many do you have?

A. 463.

Mr. Hoffmeister: I want to be noted as joining in the objection.

By Mr. Holmes:

Q. Are those members employed in the plants of the Pittsburgh Plate Glass Company at Crystal City.

Mr. Hoffmeister: As of what date?

By Mr. Holmes:

Q. September 30, 1938.

A. Yes, the majority of them are employed at Pittsburgh Plate Glass Company.

[fol. 326] Q. How many would you say that were not employed that are members?

Mr. Buchanan: Objected to. That is a matter of record. The record will be the best evidence.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: By employee, do you mean working?

By Mr. Holmes:

Q. Actually working?

A. How many are actually working?

Q. Yes, members of your organization?

A. I would say from 75 to 80 are unemployed.

Trial Examiner Dudley: You mean by that are not working now?

The Witness: Not working.

By Mr. Holmes:

Q. Are you familiar with the operations in Crystal City, that is the making of this plate glass?

A. No, I am not.

Q. You have never been in the plant?

A. Never been in the plant.

Q. Now, you have spent some time down there in that community, I take it?

A. I have been there since the first day of January.

Q. And you have met a number of the citizens and the employees of this particular company in that vicinity, have you not?

[fol. 327] A. Yes, sir.

Q. And you have also been in all of the other communities where they have glass factories, have you not?

A. Most of them, yes.

Q. And you have had a chance to observe the employees and people living in that community in Crystal City as well as these other communities, have you not?

A. That is right.

Q. Now, what if any, super-intelligence did you find in Crystal City that they didn't have in these other localities?

Mr. Hoffmeister: Objected to as irrelevant and immaterial.

Trial Examiner Dudley: I think you asked the same question.

Mr. Hoffmeister: No, Mr. Buchanan asked if the people in the towns were more intelligent than Henryetta, a much more unfortunate question.

Trial Examiner Dudley: I will let him answer.

By Mr. Holmes:

Q. He said to answer. Did you see any particular——

A. I believe the members of our organization in Crystal City showed more intelligence than a lot of them in the community.

Q. Well, what would you say as to some of these other communities?

[fol. 328] Mr. Buchanan: Which other communities?

The Witness: As a rule I don't see any difference in them. They are all glass workers, they have worked in different plants in other communities. They are interrelated to people in other plants,—they are no different from other groups of glass workers that I have come in contact with.

By Mr. Holmes:

Q. Isn't that a general condition, even in Pennsylvania and Ohio, that the grandfather works in the glass plant and the son works there, and the grandson, isn't that a fact?

A. That is a fact.

Q. And in all communities about the same, isn't it?

A. Just about the same, yes.

Q. Did you see any difference in the types of citizens in Crystal City than in other communities, such as Mount Vernon, Ohio, or Ford City?

A. No, I didn't see any difference there than they are in Henryetta, at Ford City or in Clarksburg.

Q. Do you know of any special skill required in the Crystal City plant that is not required in any other plant?

Mr. Buchanan: That is objected to because the witness says that he has never been in the Crystal City plant.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: Let him answer.

The Witness: All I know is that the jobs are all identical [fol. 329] in nature, the work in comparison with the duties in the Ford City and Creighton plants and the duties even in the window glass plants, because they were tank furnaces.

Q. You are familiar with the rates of pay received by your members in Crystal City, are you not?

A. Yes.

Q. And also the working conditions of your members in Crystal City, is that right?

A. Yes, sir.

Q. That is the employees who are members of your organization?

A. That is right.

Q. That is, you know about them?

A. I know about them.

Q. Just what are the working conditions? How do they compare with the other plants of the Pittsburgh Plate Glass Company?

A. Well, they have had a rule down there, an agreement that is similar in looks to the agreement that we have had with the Pittsburgh Company here in Pittsburgh covering the other plants. Their hours are practically the same, their work-week is the same.

Q. The basic rate of pay——

A. The basic rate of pay is practically the same.

Q. Well now, calling your attention to the time in 1936 [fol. 330] when the strike was on the question of increased pay, when back pay was granted to the other plants other than Crystal City, what do you know about back pay being granted to employees at Crystal City?

A. If I remember it correctly, the employees in the other plants didn't—they got back pay, that is the ones who were working during the strike, the maintenance employees got the back pay from the time the strike was in progress. In Crystal City it is my knowledge from talking to my members that they received back pay for all the time that they worked during the strike.

Q. That is the increased rate of pay, is that right?

A. Yes.

By Mr. Buchanan:

Q. Do you know about conditions of Crystal City during that strike during the fall of 1936, were you there?

A. I was through there, yes.

Q. How often were you there?

A. Twice.

Q. When were you through there?

A. In November and January.

Q. November 1936 and January 1937?

A. 1937, that's right.

Q. Was the strike over in January 1937?

A. It was over the twentieth of January.

[fol. 331] Q. Were you there before the twentieth?

A. Before the twentieth, yes.

Q. How long were you there in November?

A. I passed through there one day.

Q. On the train?

A. No, I wasn't on the train. I took an automobile trip there.

Q. How long did you stay there?

A. About half a day. I was delayed a day in St. Louis.

Q. In January, 1937 how long were you there?

A. About the same time.

Mr. Buchanan: I object to the testimony on the part of this witness as to the conditions at Crystal City during the strike unless he confines his testimony to what he observed during those two half days that he happened to be there.

Mr. Hoffmeister: I join the objection.

Trial Examiner Dudley: I will admit his testimony for such weight as it may have in giving the general picture there.

Mr. Holmes: You may continue cross-examination.

Mr. Buchanan: I have found out all I want to know.

Mr. Holmes: We rest.

Cross-examination.

By Mr. Hoffmeister:

Q. Mr. McVay, what is your present position with the Flat Glass Workers of America?

[fol. 332] A. Organizer.

Q. How long have you been organizer?

A. Since December of 1937.

Q. December of 1937?

A. Yes.

Q. Prior to that time you did some organizing work also, didn't you, the other two times that you went to Crystal City, you went down there for the purpose of organizing, didn't you, in 1934 and 1935?

A. I went there for the purpose of contacting people that I knew were interested in the organization, but not to put on a campaign, so to speak.

Q. At that time were you an employee of the Pittsburgh Plate Glass Company?

A. Yes, sir, I was.

Q. Do you hold any official position by appointment from anybody?

A. No, I do not.

Q. At the present time?

A. No.

Q. And do you hold any office in your Local Union at Crystal City?

A. I do not.

Q. So these numbers that you give us with reference to membership, 463, you don't know of your own knowledge [fol. 333] whether that is the actual number who are members at this time, do you?

A. I absolutely do. I am a full-time organizer there and I have access to all the records there and I have them in my possession now.

Q. So you recall that that is the number of individuals that you signed up, is that correct?

A. That is right.

Q. Have you organized other Local Unions for the Federation of Flat Glass Workers of America?

A. I have assisted, yes.

Q. Now, you described in your testimony certain conditions at other places where you organized Local Unions?

A. No.

Q. You briefly described the people in the community at Crystal City. Did you have an opportunity to investigate any of those people to find out whether the people in the community were home-owners or what their social position of life was? And their economic position in the community?

A. Yes.

Q. What did you do to determine those things?

A. Well, an organizer, you know, of course has to depend on the workers with whom he comes in contact for his information, and it comes to him honestly, and I find that the Mayor of Crystal City is an assistant superintendent of [fol. 334] the plant, that he is also connected with the WPA work there, and he also built a number of homes.

Mr. Hoffmeister: Just a minute, that is not responsive to the question at all. I asked if you made an investigation to find out whether these people owned their own homes, I mean people employed in the plant, and as to their social position, and their economic position down there.

A. Why, that's what I am trying to get at.

Q. You were talking about the Mayor.

Mr. Holmes: He is an employee, too.

Trial Examiner Dudley: Let him answer.

The Witness: Mr. Balsinger built a number of homes up in Crystal City there and a number of employees have bought them. They are nice homes, I suppose they would run anywhere from six to ten thousand dollars. Of course these employees worked down in the plant, and a number of them were directly under Mr. Balsinger's supervision.

Q. How about the people's social status there? The employees' social status?

A. They have a lot of social functions there, for instance they have soft ball clubs. I think Mr. Balsinger is the Chairman of the Soft Ball Association there. They have a large

country club; the company donates $600.00 a year, I think, for their social functions, out in the country. The country [fol. 335] club, I want to explain that it is a piece of land——

By Mr. McAfee:

Q. How do you know, Mr. McVay, that the Company donates to these enterprises you are mentioning now?

A. Well, I have other people here in the building, I suppose, that could testify as to what the exact amount is. I know from what they told me, people who have been connected with the clubs in an official capacity.

Mr. McAfee: Objected to as hearsay.

Trial Examiner Dudley: I will let him answer. I think Fred Hoffmeister will bring out that he got it from other people.

Mr. McAfee: We are not bound by this.

Trial Examiner Dudley: Fred Hoffmeister asked how he got the information.

By Mr. Hoffmeister:

Q. You go ahead and tell us about the social status of the people in the community, or are you finished? I don't know whether you were finished or not.

A. I was interrupted. Do you want me to continue on where I was about the Company's country club?

Q. Yes.

A. This club consists of a rented piece of farm land about five or six miles out from the town on a little creek. They [fol. 336] have picnic benches around the place and they hold dances out there, too, I think.

Q. Did you encounter those conditions in other places when you were working as an organizer?

A. Yes, I have.

Q. Well then, that isn't anything different as to conditions than you might find when you are organizing a Local Union, is it?

A. Yes, the manner in which it is carried on is a little bit different, than most communities, that is in this respect, that you usually find the company directly connected or dominating in most all of the affairs of the employees there in the community.

Q. You testified on Direct Examination that you found these people exactly the same as they were in other plants.

A. That was in regard to intelligence.

Q. Oh, you confined that to intelligence? Well, this is an agricultural community around Crystal City?

A. I would say it is both agricultural and industrial.

Q. How many people live down there?

A. In the twin cities around 9000 people.

Q. One other question. Did you talk to any of the employees down there,—you say you talked to employees when you were organizing this Local Union,—did you talk to any employees who didn't want to join the Federation of Flat [fol. 337] Glass Workers?

A. There has been a lot of them told me that they didn't feel that they could join until this question was decided by the Board because they felt that if they took an active part——

Mr. Buchanan: Just a moment, confine your answer to the question and don't try to insinuate any charges against this Company which are not proper in this proceeding, of which you have been instructed.

Trial Examiner Dudley: Mr. Reporter, will you read the question and answer, please?

(Question and answer read by the Reporter.)

Mr. Hoffmeister: I will ask him to answer the question yes or no.

Mr. Holmes: And then tell us what they said.

Mr. Hoffmeister: I didn't ask him what they said.

By Trial Examiner Dudley:

Q. Did you talk with various employees of the Company about joining the Federation of Flat Glass Workers?

A. Yes.

Q. Did any of them say that they wanted to join?

A. Yes.

Q. Did any of them say that they didn't want to join?

A. Yes.

Q. Did they say anything to you in the course of this con- [fol. 338] versation?

A. Yes, they explained to me why they didn't want to join, expressed their reasons as being that they were fearful of losing their jobs.

Mr. Buchanan: I object to the reasons as irrelevant and immaterial.

Trial Examiner Dudley: I will let it remain.

Mr. Hoffmeister: That is all.

Mr. Holmes: That is all, Mr. McVay.

(Witness excused).

Mr. Holmes: The Complainant rests.

Trial Examiner Dudley: I would like to ask a few questions.

By Trial Examiner Dudley:

Q. You have said that you had 463 members at Crystal City in your Union?

A. That is right.

Q. What do those people do to join a Union?

A. They sign an application card and come to the hall and attend meetings, pay dues, take an active part in the organization as members.

Q. Do you have a blank form of card with you which they would sign?

A. I think there is one in the group. I don't have one with me.

Mr. Buchanan: When he was permitted to testify to the [fol. 339] members he said he went to 463 members, and he thought about 75 or 80 were unemployed, and the testimony was offered on the understanding that the record would be offered later, as I understand it. Clearly the objection was made by me that the testimony was not the best evidence of what was a matter of record, and as I understand the records are in the witness' possession.

Cross-examination.

By Mr. Buchanan:

Q. Mr. McVay, do you have charge of the records of the Local Union of the Federation of Flat Glass Workers at Crystal City?

A. I have them with me at the present time, yes.

Q. Are they here in the Court Room?

A. No.

Q. Where are they?

A. Over in the hotel.

Q. What hotel?
A. The Fort Pitt.
Q. Will you send for them to produce them?
A. Yes, I can send for them.

Mr. Holmes: The Financial Secretary is here from Crystal City.

Mr. Buchanan: I understand you rest.

Mr. Holmes: Well, we have rested as far as this witness. [fol. 340] Mr. Buchanan: Oh, I thought you rested your case.

Trial Examiner Dudley: Off the record.

(Discussion off the record.)

Mr. Buchanan: On the record again, I move that the testimony of the witness with regard to membership of the Union at Crystal City, the Union of the Federation of Flat Glass Workers at Crystal City be stricken from the record.

Mr. Hoffmeister: I join the motion.

Trial Examiner Dudley: Over objection I admit that testimony for such value as it may have, and I will allow it to remain in the record. The motion is denied.

Mr. Buchanan: I call for the production of the record of the Federation of Flat Glass Workers Local Union at Crystal City, the witness having testified that they are in this city.

Mr. Hoffmeister: I join in the motion.

Mr. Holmes: I would like to have the purpose of having the records brought in.

Mr. Buchanan: The purpose is to show the extent of representation of the employees of the Pittsburgh Plate Glass Company at Crystal City by the Petitioner which is claimed in the petition for certification as the appropriate unit for collective bargaining for the employees there as well as at the other plants of the Company.

Mr. Holmes: We admit that we do not represent the [fol. 341] majority at Crystal City, but that we do have an organization there composed of the members that the witness has heretofore testified to. Now, as long as we admit that we do not have a majority there, then we contend that that is wholly immaterial, and they should not have a right to examine these particular application cards and get the names of the people, the employees who are members of our

Union, for various reasons, and we are objecting to the production of the membership cards or application cards or to give to them any information concerning our membership at that particular plant.

Mr. Buchanan: Mr. Examiner, we are entirely unconcerned as to what employees of my client at Crystal City belong to the Union of the Petitioners there.

I do not care to know who those people are, but I do submit we ought to have the best evidence as to how many employees they have in good standing in their Union, and that the record should be produced for that purpose, to satisfy the Examiner on that subject instead of allowing a man to talk here on the record and to give numbers and put them in the record, and then if there is an objection to having those numbers.

I ask that it be stricken from the record.

Mr. Hoffmeister: On behalf of the Crystal City Glass Workers' Union, we ought to know who their members are, [fol. 342] whether they are actual members of Local Union No. 63 of Crystal City at the present time.

Trial Examiner Dudley: Off the record.

(Discussion off the record.)

(At this point a short recess was had.)

[fol. 343] Trial Examiner Dudley: I call this hearing to order. Before this recess, Mr. Buchanan made a demand for the membership cards of the Federal Glass Workers' Union, of the employees at the Crystal City plant.

I believe no announcement had been made on the record as to that request.

Mr. Holmes: I might say, that the cards of the membership of the Crystal City Union will not be furnished for the examination of the company's attorneys or other attorneys that may be representing parties that may be of interest, but that we are willing to submit the membership cards for the Board's examination by the Board, to check against the payroll if they care to so check.

Mr. Buchanan: Mr. Examiner, the Pittsburgh Plate Glass Company by its attorneys, J. Wesley McAfee and Smith, Buchanan & Ingersoll, hereby move that the Board order an election by the production and maintenance employees of the company other than clerical employees not directly connected with production and supervisory employees em-

ployed at the plant of the company at Crystal City, Missouri, to determine whether such employees wish to be represented for the purpose of collective bargaining by the Federation of Flat Glass Workers of America.

Trial Examiner Dudley: Well, of course, I cannot pass on a motion such as that. I will therefore not attempt to, [fol. 344] and the Board can take whatever action it wishes to in response to your motion in any order that they may issue.

Mr. Holmes: I might say as a matter of record that as attorney for the Flat Glass Workers of America, we wish to make a motion at this time to permit an election in all of the plants as to whether or not the Federation of Flat Glass Workers of America shall be the bargaining agent for the employees in the production departments of the Pittsburgh Plate Glass Company.

Mr. Buchanan: On behalf of the Pittsburgh Plate Glass Company I desire to say that I have no objection whatever to the motion of the petitioner being granted providing the result of the election shall be certified to the Board and to the parties by plants separately, so that the vote of employees at Crystal City with regard to the issue shall be shown.

Mr. Hoffmeister: I join in Mr. Buchanan's statement on behalf of the Crystal City Glass Workers Union.

Trial Examiner Dudley: One point I don't believe is very clear, Mr. Buchanan, will you consent to an election to be held in all of the plants, as long as you can get the results by plants?

Mr. Buchanan: I am consenting to the taking of a vote in each plant on the issue as to whether the Federation of Flat Glass Workers of America, shall represent the employees of the plants for collective bargaining, provided [fol. 345] we have a separate vote for each plant on that issue.

Trial Examiner Dudley: Do you mean, considering each plant as a separate corporate unit?

Mr. Buchanan: It will be up to the Board, Mr. Examiner, to decide what will be the appropriate unit subject to appropriate judicial review, but what I want to get on the record for the enlightenment of the Board is the vote at each plant on this issue.

Trial Examiner Dudley: Now, I am not sure that I got an answer from you in regard to Mr. Holmes' suggestion

that they would be willing to produce the membership cards of the Crystal City employees for the examination of the Board.

Mr. Buchanan: I wish to have my demand read from the record, but I persist in the demand which I made, adding to the demand that I shall be willing to submit to any proper regulation to prevent the Pittsburgh Plate Glass Company from knowing the names of each person claimed to be a member, provided it has an opportunity to determine the fact as to whether that member is in good standing and whether he is an employee of the company.

Trial Examiner Dudley: I understand from that that you would be satisfied, as far as your demand for the cards is concerned, if the cards and dues records are examined by some impartial person and report is made which would give numbers but not names.

[fol. 346] Mr. Buchanan: I do not wish, Mr. Examiner, to deprive my client of the benefit which is necessary to any fair hearing, of cross examination of testimony introduced in an issue in which it is a member, but I may say this, that my client does not wish to know the names, and I think that some way could be devised by which we could be kept from knowing the names, if only we find out how much each person represented by a name has paid to the union, whether it has paid to the union, whether he is in good standing, and whether he is one of our employees or just a straw man.

Trial Examiner Dudley: May I ask if the membership cards are here for Crystal City?

Mr. Holmes: We have them.

Trial Examiner Dudley: And do you have records showing the payment of dues for the Crystal City employees?

Mr. Holmes: I don't think we have that record. We have the membership cards signed by the member and the conditions under which he signed. The card, itself, of course, states that.

At this time, for the purpose of the record, I wish to withdraw my motion that I heretofore made with respect to the election in all of the plants, electing at this time to withdraw that, if the Examiner please.

Mr. Hoffmeister: If your Honor please, on behalf of the Crystal City Glass Workers Union, with reference to the [fol. 347] membership cards, the Crystal City Glass Workers Union take the position that they are entitled to have

the full right of cross examination and to check those cards as to actual membership, as to whether or not those cards are in good standing at the present time or perhaps might have been dropped, in order to arrive at the exact number of members that the Federation of Flat Glass Workers Union has at the present time in Crystal City.

Trial Examiner Dudley: Now, I would like to be satisfied with Mr. Buchanan's request and if we can work out some method which he seems to think was possible.

Inasmuch as those records are not in town, I take it it is impossible to check those records.

Mr. Buchanan: I am quite sure it is not impossible. I am sure there isn't a union in this country that doesn't have dues records, and if they are not in town they can be produced.

Trial Examiner Dudley: Are there any in Pittsburgh?

Mr. Holmes: They are not in this state or in this city. They are in Crystal City.

Mr. McAfee: Well, I suppose there is a home office of the Federation to which no doubt a percentage of them are transmitted. It is extraordinary, Your Honor, because when we talked about the best evidence, the dues record is the only thing which could constitute the best evidence. [fol. 348] The application card does not have anything to do with present membership, whether the applicant has accepted, whether or — he has maintained his membership to the present date, whether he is in good standing at this date, whether those questions are left unanswered.

Mr. Holmes: I suppose the secretary could answer that.

Mr. McAfee: Perhaps he could.

Trial Examiner Dudley: Now, we are encumbering the record quite a bit. Let us go off the record again.

(Discussion off the record.)

Trial Examiner Dudley: On the record.

If it will help any of the parties, I am willing to take the cards, as the Trial Examiner, which the Flat Glass Workers will give me, and to compare the names on those application cards with the names carried on the payrolls of the company as of any or all of the dates, and as they have been introduced in evidence, and then to report here on the record as to the number of names which I found to be both on membership cards and on the payrolls.

I say, I am willing to make that examination and that report, if that will help to give you a comparison between the membership cards and the payrolls, thus to eliminate fictitious names or signers who are not employees of the company, and to make that report. More than that I cannot do, that I can see.

[fol. 349] Mr. Buchanan: With due deference to Your Honor's suggestion, I suggest it would not get us anywhere, because the signatures on the application cards will not prove membership in good standing in the Union which now seeks certification on the strength of the present strength of its membership. Certainly they cannot seek representation on the strength of people who signed cards and who perhaps are not in good standing and were never in good standing.

Trial Examiner Dudley: Mr. Holmes states that the dues records are not in this city, so I cannot compare them.

Mr. Buchanan: I unfortunately did not discuss that matter with Mr. Holmes but with Mr. Kleeb, and I thought the dues records would be here.

Mr. Kleeb: I may state for the record that Mr. Buchanan did expect that, but I could not assure him that that would be done by the Union.

Mr. Buchanan: Isn't it a fact that you said it was always done so I could expect it?

Mr. Kleeb: Oh, no.

Mr. Buchanan: Well, regardless of that, I do expect that the best evidence will be produced, when it is in the possession of the party who is produced as a witness, to talk about the fact which the best evidence would show.

Mr. Kleeb: I want to make my point clear: I did say, for a Union to expect certification on a particular plan or [fol. 350] a particular unit, it would offer proof generally as to its membership in that particular plant or that particular unit.

Mr. Buchanan: Including the dues records.

Mr. Kleeb: Well, in some cases.

Mr. Buchanan: Well, in this case.

Mr. Kleeb: I don't know what was going to be done in this case.

Mr. Buchanan: Well, in this case I submit if we don't have this record, we will have to have an election.

Trial Examiner Dudley: There is nothing I can do, then, except go ahead.

Mr. Kleeb: Except, if the Trial Examiner please, I want my point clear that there are two distinctions here. There is the proof of membership for the purpose of representation and there is the proof of membership for the purpose of determining the unit, and when I talked to Mr. Buchanan I was talking in terms of representation to the Board, which had to do with proof of membership with reference to the question of representation, and he is talking about proof of representation with reference to the appropriate bargaining unit, which differs.

Mr. Buchanan: No. Mr. Examiner, I am talking about proof of membership for the purpose of representation by the petitioner.

Mr. Kleeb: In any event, I cannot bind the actions of the petitioner.

[fol. 351] Mr. Buchanan: I realize that, Mr. Kleeb. I think you are as disappointed as I am.

Trial Examiner Dudley: Mr. Holmes, have you any more testimony?

Mr. Holmes: We read——

Trial Examiner Dudley: You read your case?

Mr. Hoffmeister: I am not sure whether you had that objection in the record, Mr. Examiner.

I desire on behalf of the Crystal City Glass Workers Union to object to all of the testimony given by Mr. McVay with reference to the records cards and other records of the Federation of Flat Glass Workers of America for the simple reason that it is not the best testimony. At the most, it can only be hearsay and, therefore, it is incompetent and immaterial to the issue presented by that testimony.

Trial Examiner Dudley: I think you concurred with Mr. Buchanan on a motion to strike that testimony.

Mr. Hoffmeister: I was not sure about that.

Trial Examiner Dudley: I think I denied it and if not I will deny it and rule that the evidence may remain for such weight as it may have.

Mr. Buchanan: Off the record, ——

Trial Examiner Dudley: Off the record.

Mr. Buchanan: Mr. Examiner, I desire to ask a question just to sum this matter up.

[fol. 352] Mr. Holmes, will you produce at this hearing the records of the petitioner showing its membership in

good standing among the employees of the Crystal City plant of the respondent?

Mr. Holmes: I cannot, because I do not have them.

Mr. Buchanan: I renew the motion to strike out all testimony on the part of the petitioner as to membership among employees of the Crystal City plant because the evidence given is not the best evidence and the best evidence Petitioner declines to produce.

Mr. Hoffmeister: I join in the motion.

Trial Examiner Dudley: The motion is denied.

Mr. Holmes: May I, for the purpose of the record, have the Examiner pass on my motion to grant to me leave to withdraw my motion on the election of members in all of the plants?

Trial Examiner Dudley: Is there any objection?

Mr. Buchanan: I think the motion appropriate and I concurred in it, provided the result of the election should show how the employees stood at each plant, but I cannot object to the withdrawal of that motion, if Mr. Holmes wishes to withdraw it.

Mr. Holmes: And have it expunged from the record, if possible.

Mr. Buchanan: Oh, I wish it to remain of record. I am content to have the withdrawal of the motion, but I wish it to [fol. 353] appear of record that it was made.

Mr. Holmes: All right.

Trial Examiner Dudley: Leave is granted to withdraw your motion. However, it will remain in the record physically.

Mr. McAfee: May we proceed, Mr. Examiner?

Trial Examiner Dudley: Very well.

Mr. McAfee: I have one or two short witnesses on matters that have been referred to by other witnesses.

E. J. Pallard, a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Direct examination:

Q. Will you state your full name?

A. E. J. Pallard.

Q. Where do you live?

A. Crystal City, Missouri.

Q. How long have you lived there?

A. Since 1916, two years out for Army service.

Q. By whom are you employed?

A. Pittsburgh Plate Glass Company.

Q. In what capacity?

A. As chief accountant at their Plant Number Nine, Crystal City.

Q. How long have you acted at that plant in that capacity?

[fol. 354] A. In that capacity, since March, 1921.

Q. Mr. Pallard, there was introduced as an Exhibit here yesterday a wage scale pursuant to an agreement with the Union and the company with reference to some of its plants not including Crystal City. That is Petitioner's Exhibit Number Seven, which I now hand you.

Have you ever seen that document or examined it—I better say—since you did see it here yesterday when you were in attendance. Have you examined that document before?

A. No sir, I have not.

Q. You don't know the contents of it?

A. No, I don't.

Q. Do you have the wage scale with you of employees in the maintenance and production of the Crystal City, known as Works Nine of the Pittsburgh Plate Glass Company?

A. I have my office record showing the scale.

Q. You have your office record which does disclose that?

A. It does disclose the wage scale.

Q. That is the record which is in your hands as chief accountant?

A. Yes.

Q. Now, Mr. Pallard, you may have heard yesterday some reference to the fact that the payrolls at Crystal City as introduced in evidence for February 1st, April 4th and September 30th, 1938 showed a larger number suspended [fol. 355] throughout than some other plants that were yesterday referred to. You remember that testimony, no doubt?

A. Yes sir, I do.

Q. With that question in mind, I should like to ask you to tell us briefly what was being done at Crystal City, if anything, of an unusual nature during that period? Anything that would require additional employees in addition to those ordinarily employed.

Trial Examiner Dudley: Are you talking about February 1, 1938?

Mr. McAfee: From February 1, 1938 to and through September 30, 1938, or so much of that period as is applicable.

A. During the early part of the period we had a construction program which employed some men.

Q. What were you building?

A. A new tank.

Q. And is that the Pilkington Process tank that we have been talking about here?

A. Yes, sir. We were completing it around that time.

Q. Roughly, how large is that structure—how long is it about?

A. Well, I would be guessing at that.

Q. Would you say one hundred and thirty feet?

A. That is approximately correct, according to my estimation. I don't have the size.

[fol. 356] Q. That is constructed of what?

A. Mostly of clay shapes and brick.

Q. And that was under construction in February.

A. That's right.

Q. Now, did you have a demolition program as well as a construction program?

A. We were tearing down some buildings at that time, yes sir.

Q. What buildings?

A. Among them was the Casting Hall, hot house, wheel house, batch house, and the other buildings that we termed as the Number Two, which it was being used as a dressing room, and so on, for the yard laborers, that were torn down.

Q. Why were they torn down at that period?

A. They were obsoleted by the—due to the fact that the pot system was discontinued just prior to that time. The old casting or furnace hall was not needed and the old pot house was not needed.

Q. With the installation of the Pilkington system you discontinued the pot system at Crystal City and the buildings torn down?

A. Yes, sir.

Q. And how many men on the average—I realize they fluctuated some—was there on the average from, say, February 1, 1938 up and through April 4, 1938; how many men were engaged in construction or demolition work?

[fol. 357] Oh, I would say there was an average of seven to eight hundred, probably.

Q. Now, when was the Pilkington process tank completed?

A. It was completed—it started in operation in some sort of an experimental basis about the middle of March. I think the date was March 16th, and was completed shortly after that, although there was some construction on the plant after starting operation.

Q. How long after that experimental operation did it proceed—for how long did it proceed?

A. For several months.

Q. By "experimental" you mean production of glass for purposes other than sale?

A. Well, the production of glass, or the product that came from the tank was probably not fit for sale, as it was not up to quality.

Q. Was that glass ground and polished?

A. No, only parts of it, samples, to determine the quality.

Q. Why would you grind and polish experimental glass?

A. Well, in order to determine the quality of the glass you have to grind and polish it to be able to examine a clear sheet.

Q. I see. So that I understand it, during the period in question, particularly during the period from February 1st, from and before February 1st and to and after April 4th, 1938, you had a large number of employees engaged [fol. 358] either in construction work on the new tank or in tearing down the obsoleted buildings, or in experimenting with production in the new Pilkington tank; is that an accurate statement of it?

A. That is right, as I see it.

Mr. McAfee: That is all.

Mr. Holmes: I will submit to you to go ahead.

Mr. Hoffmeister: I will go ahead with the cross-examination.

Cross-examination.

By Mr. Hoffmeister:

Q. Mr. Pallard, how long have you been engaged at Crystal City by the Plate Glass Company, the Pittsburgh Plate Glass Company?

A. Since August, 1919.

Q. Have you lived in Crystal City all that time?

A. Yes, sir. For about two years—not immediately prior to that time. I had time out for Army service.

Q. You are familiar with the general social and economic conditions existing in Crystal City ever since 1919?

A. Yes, sir.

Q. Just tell us something about that.

A. Well——

Q. What kind of a place is Crystal City and where is it located.

A. It is located approximately thirty-five miles south of [fol. 359] Saint Louis on the Mississippi river.

Q. How many population?

A. Crystal City, I think, the last census had, approximately thirty-five hundred.

Q. Are there any other industries there in addition to the glass plant?

A. In Crystal City?

Q. Yes.

A. No, there is no production industries in Crystal City.

Q. Since 1919, has there been any growth of the city?

A. I think there has been some, yes sir.

Q. How has it changed, if at all?

A. Well, we think it has improved considerably.

Q. The city revolves around the glass plant, that is the only industry in Crystal City, and practically all the people who live in Crystal City have something to do with the glass plant, isn't that correct?

A. Directly or indirectly. Merchants and so on.

Q. Do people stay in Crystal City much or do they go away or leave? Are they home-loving people or people who leave their homes frequently?

A. I don't know whether I understand the question.

Q. I mean, are the people—do they leave their homes in Crystal City very often and go away from Crystal City or do they stay at home most of the time, do they go on trips? [fol. 360] The point I am trying to get, some people don't even go to St. Louis, do they?

A. Well, they do go to St. Louis, yes.

Q. They stay at home; they don't get away from their local community; they are community people, aren't they?

A. They are, yes, I would say they are.

Q. Are you familiar with the problems that come up at Crystal City, and have come up there since 1919, at the plant, the problems of the employees?

A. Some of them I am familiar with.

Q. Have you ever had any serious problems there since 1919 that you can recall?

A. You are thinking of labor problems?

Q. Yes.

A. We haven't had any serious problems since I have been there, not serious problems.

Q. How were those problems solved?

A. They are usually solved by the local management—I would say in all cases they are.

Q. And before they had any organization there of any kind the individuals presented their own problems, is that correct?

A. That is right.

Q. And they were solved by the management?

A. That is right.

Q. Did you ever have and know of any labor problems [fol. 361] at that plant, Mr. Pallard, any strikes?

A. Not in my time, or to my knowledge.

Q. Well, since 1919, I would say?

A. No.

Mr. Hoffmeister: I think that is all.

Mr. Holmes: Where did you come from to Crystal City?

A. Ste. Genevieve, Missouri.

Q. Where?

A. Ste. Genevieve, Missouri.

Q. You came to Crystal City as an accountant for the Pittsburgh Plate Glass Company?

A. Not originally.

Q. Now, is that answer not originally?

A. That's right.

Q. But in 1916 I believe you said you came to Crystal City?

A. That is right.

Q. And you worked for someone else for three years before goint to the Pittsburgh Plate Glass Company, is that right?

A. I did work for possibly two years for another concern.

Q. But the people there are somewhat different, you say, from any other community?

A. I didn't get the question.

Q. I say, do you think the people of Crystal City and in that particular community are different from people of other communities?

[fol. 362] A. Well, I don't know what communities to compare them with.

Q. Well, are they different from any other community that you know of?

A. They must be different from some communities, I believe.

Q. But, are they? But they do go up to St. Louis, you think, that is, they leave their homes in Crystal City and go up to St. Louis?

A. I think they do; yes, sir.

Q. Now, as an accountant for the company, I suppose your duties confine you to the office of the company; is that right?

A. More or less they do; yes, sir.

Q. And your duties are only at that particular plant, are they not?

A. Yes, sir.

Q. And you have a controller over you, don't you?

A. What is the question?

Q. A controller, or someone over you—in the accounting department over your department?

A. Yes, sir.

Q. And they check you over, do they?

A. They do.

Q. Now, who does that checking?

A. They have factory auditors.

Q. Now, you say they have factory auditors. Who?

A. The company has.

[fol. 363] Q. And when you say "the company" you mean the Pittsburgh Plate Glass Company.

A. That is right.

Q. All right. Now, just how do the company auditors check; what do they do; do they go around to the various plants and check the various auditors in the plant? Do they?

A. I suppose they do. They check us.

Q. They check you?

A. Yes.

Q. And are those auditors—where are they from?

A. They are from Pittsburgh, I suppose.

Q. Well, don't you know where they are from?
A. Yes.
Q. Well, where are they from?
A. Well, they have several of them. They have several of them. You mean, where they are from? You mean where they live?
Q. Yes. What office are they from?
A. They are from the general office in Pittsburgh.
Q. Do you know who is over them; that is, who is their boss, of your own knowledge?
A. I do so.
Q. Who is he?
A. The chief auditor.
Q. Who is the chief auditor?
[fol. 364] A. He is Mr. Harold.
Q. Who?
A. Mr. P. L. Harold.
Q. Where is his office?
A. Pittsburgh, in the Grant Building.
Q. Do you know who his boss is?
A. I think I know.
Q. Who is he?
A. The controller.
Q. Who is the controller?
A. The controller of the corporation, the Pittsburgh Plate Glass Company.
Q. Who is he?
A. Mr. M. C. Spar.
Q. Who is over him?
A. Now you are getting beyond me.
Q. You don't know. Do you know who they are directly responsible to, that is, who is the boss in charge there? Are they all responsible to the President or to the manager of that particular department, or who?
A. I suppose; I am not familiar with the upper structure.
Q. Not what you suppose; do you know?
A. I do not know, no sir.
Q. Now, isn't it a fact when you were putting in the new tank at Crystal City, when you were dismantling the build-
[fol. 365] ings, that they used the regular employees of the glass company to do that dismantling work and also to make the installation of the new tank; isn't that a fact, or if you know it to be a fact?

A. They used the regular employees for dismantling. To the best of my knowledge there was some contract work on the construction.

Q. The reason that they used the regular employees in the dismantling of the old buildings was for the reason that the glass plant at that particular time didn't have many orders and it wasn't very busy, was why they did do that?

A. They did do that.

Q. And regardless of what the reason was, you don't know? You don't know why they did that?

A. Why they were moved out there, or why they were dismantled?

Q. Yes.

A. I don't think I get the question right.

Q. What I want you to say, that is, if you know, was that not the reason that the employees of the plant who were tearing down the buildings was because they didn't have any glass to make?

A. I don't know that.

Q. No?

A. I don't know.

Q. Well, the plant was not running as a glass factory?

[fol. 366] A. It was not in the early part of the period.

Q. And when the factory was not running or making glass, they used those same men that made the glass to tear the buildings down, isn't that a fact?

A. That is right; yes, sir.

Q. Are you familiar with the wage rates in the Crystal City's plant?

A. Yes, sir.

Q. Now, those wage rates are the same in the Crystal City plant as they are in the other plants of the Pittsburgh Plate Glass Company, are they not?

A. I don't know definitely. I have no comparison with those rates.

Q. Well, in 1937, you know it to be a fact, do you not, that the employees of the company had an agreement with the Pittsburgh Plate Glass Company in writing, isn't that a fact, relative to the wages and hours and conditions of labor in that particular plant?

A. At Crystal City?

Q. At Crystal City, yes sir. Didn't you have such an agreement?

A. I didn't get the question. May I have it repeated?

Q. Will you read the question, please?

(Question read.)

A. That is right, yes sir.

Q. And by the terms of that agreement, that the company [fol. 367] guaranteed the average occupational wage rates of those prevailing in other glass plants in the country?

A. I believe that is about the way it reads.

Q. And the same rate for overtime hours shall be at the normal rate, isn't that right?

A. I believe that is about correct.

Q. Well, now, so far as you know, the company has complied with that agreement, have they not?

A. Yes, sir.

Q. And then from your knowledge of this agreement and from your knowledge of the conditions that existed at Crystal City, then you would say that the same basic wage rate has been paid in Crystal City as has been paid in any other city, isn't that right?

A. In a general way. We understand there was some difference. I don't have any definite knowledge.

Q. I am speaking now of the basic rate.

A. Basic rates were generally the same, yes sir.

Q. Generally the same. Are you a member of this country club down there?

A. Yes, sir.

Q. Are all employees members of it?

A. I don't think so; not all of them.

Q. The majority of them are, is that right?

A. Yes, I believe.

[fol. 368] Q. Who pays the rent on this country club?

A. The Glass company pays the rental.

Q. For the country club, for the employees, is that right?

A. You say bought it?

Q. No, I say, for the employees, they pay the rent?

A. They pay the rent, yes sir.

Q. Do you know how much that is a year?

A. I am not sure whether it is five or six hundred dollars.

Q. Well, you write the checks for that, don't you?

A. No, I don't.

Q. Where do they come from?

A. They come from the general office.

Q. They come from the general office?

A. Treasurer's office.

Q. General office where?

A. From the treasurer's office.

Q. Oh, from the treasurer's office. And, when you speak of the treasurer's office that is the general office in Pittsburgh?

A. That's right.

Q. Well, that is a part of the social and recreational life of the city; I take it, is it not?

A. Somewhat.

Q. The country club. Now, you say that there is practically no other industry in Crystal City with the exception of the glass plant of the Pittsburgh Plate Glass Company?

[fol. 369] A. Yes, sir.

Q. There is, however, a shoe factory, a small one, is there not?

A. Not in Crystal City, no sir.

Q. That is, between the cities—or, what city is it?

A. Festus.

Q. And there is an ice cream plant and some milk company and small plants of that nature there in Crystal City, is there not?

A. Yes, sir. We have a dairy, if you consider that.

Q. And the only division between the two towns, the twin cities, as you call it, is the highway, is that right?

A. The highway runs through Crystal City. It is no dividing line, but they are adjacent to each other.

Q. They are adjacent to each other. You walk across the road and you are in Festus, is that right, is that what you mean?

A. Practically, yes sir.

Q. Now, about your compensation hearings, do you know anything about them?

A. No, sir.

Q. You are not familiar as to where they held their meetings, or those——

A. I know where they held them——

Q. Where did they hold them?

[fol. 370] A. I think most of them are held in the Assembly Room of the local office there.

Q. Where is that?

A. Crystal City.

Q. Crystal City. Insofar as the other recreational facilities are concerned, as to the soft ball ground there, that is,

the diamond, and the other recreational facilities, who provides them for the town, if you know?

A. Well, the men have their organization and do the playing, if that is what you mean.

Q. All right. They have their organization?

A. Yes, sir.

Q. But, you have to have some diamond and you have to have some other things that go along with that?

A. Yes, sir.

Q. Now, who provides all that?

A. They do their soft ball playing in the high school stadium.

Q. All right. And, the high school stadium is where the soft ball playing is done. Now, who provides the lights for that stadium.

A. The lights? You are talking about the——

Q. The power or the electricity that goes to make the light.

A. That is provided by the company.

Q. By what company?

[fol. 371] A. The Pittsburgh Plate Glass Company.

Q. And do you make that power there in your plant?

A. No, sir.

Q. No?

A. No, sir.

Q. It is purchased?

A. Yes, sir.

Q. From whom is it purchased?

A. From the Union Electric Light and Power Company.

Q. And that is paid through the general office in Pittsburgh, is it?

A. No, sir.

Q. How?

A. The vouchers originate at the local office in Crystal City. The checks are written at the general office.

Q. In Pittsburgh, is that right?

A. That is right.

Q. And you testify that in this particular town that the entire town revolves around the glass plant. Now, what did you just mean by that; did you mean that all of the industries and all of the things in that particular town is dominated or controlled by the glass plant employees and by the company, or what do you mean by that?

A. I don't mean that. I mean that if the plant goes down for any period, why there is quite a bit of need and economic [fol. 372] trouble. The folks don't have any money. The business houses don't do any business, and so on.

Q. Well now, the Mayor of the town, he works in your plant, does he not?

A. Yes, sir.

Q. How about your Chief of Police? Do you have any policemen in your model city?

A. Yes.

Q. Yes?

A. Oh, yes.

Q. And a Justice of the Peace. What is his connection in the plant?

A. One Justice of the Peace is the safety engineer at Crystal City.

Q. Safety engineer?

A. Yes.

Q. How about your law makers, that is, the village council, do they work in the plant too?

A. Some of them do. I couldn't name them all now.

Q. Any members on the school board? Are they employed in the company also?

A. Not all of them.

Q. No?

A. No.

Q. Well, how many?

[fol. 373] A. I couldn't tell you the exact number. I don't know how many they have.

Q. Do they have five members on the school board?

A. I think it is five.

Q. Well, do the majority of them work or are they employed by the glass company?

A. I think they do.

Q. Do you have a Chief of Police?

A. I don't think so.

Q. You don't have any?

A. I don't know what they call him.

Q. How about the policemen? Do you have any policemen in town?

A. Yes, sir.

Q. How many?

A. I think there is just one.

Q. Just one?
A. Yes.
Q. Is he employed by the company too?
A. No, sir.
Q. Who pays his salary?
A. The City Council.
Q. Well, you have some policemen down in the factory, don't you?
A. Yes, sir.
Q. In uniform?
A. Yes, sir.
Q. They wear their uniform of the city or the village?
[fol. 374] A. No, sir.
Q. They are in uniform, though, in the day?
A. They are in uniform some.
Q. And in the city, does the police wear a uniform?
A. No, sir.
Q. He is just a marshal—in other words?
A. Yes, sir.
Q. Does this Marshal work out of the Justice of the Peace office who is an employee of the company?
A. Not as Marshal, I don't think he does.
Q. Who is he responsible to, this policeman; is he responsible to the Mayor, or do you know?
A. No, I don't. You are getting into City organization. That is out of my jurisdiction or line.
Q. Well, how many policemen do you have in the plant, or officers, I should say?
A. I don't know the exact number. I can give you an estimate.
Q. Well, about how many have you seen, or do you think are there?
A. I think about six.
Q. Do they all wear uniform?
A. At least six of them do.
Q. And they have guns on their sides, do they?
A. Yes, sir.
Q. And just what is their duty in the plant? What are their duties in the plant—if you know?
A. Well, they are watchmen at the gates for one thing, [fol. 375] and they also act as guide for any visitors that may come to the plant.
Q. In 1936, you were in Crystal City, were you not?
A. Yes, sir.

Q. Do you recall when there was some labor trouble in the other plants of the Pittsburgh Plate Glass Company?

A. Yes, sir.

Q. Do you remember having some rumors come down to Crystal City that you were going to have some trouble down there, do you remember anything about that?

A. No, sir.

Q. You never heard anything about that?

A. No, sir.

Q. Did you see the machine guns that were mounted over in the corner there by the bank, did you see anything like that?

A. I didn't see any machine guns there.

Q. In the hotel there on the corner, facing the plant, did you see anything like that?

A. I didn't see any machines guns there.

Q. In the hotel there on the corner facing the plant, did you see anything like that?

A. No, I didn't see any machine guns there, no, sir.

Q. Who owns the hotel just adjoining the plant there?

A. The Pittsburgh Plate Glass Company.

Q. They own the hotel?

A. Yes, sir.

[fol. 376] Q. Now, just how large a hotel is that?

A. Well, I think they have approximately twenty rooms, I suppose.

Q. Is that hotel open to the general public?

A. Yes, sir.

Q. Who do you see occupying and using that hotel? Is that the only hotel in Crystal City?

A. Yes, sir.

Q. Do they serve meals?

A. I would like to change that. There is another one, I believe, in Crystal City, on the highway. It is either in the city or just outside of it.

Q. Well, now how about the bank there? Who controls and owns the bank in Crystal City?

A. Why, it is known as the Crystal City State Bank and it is controlled and owned by the stockholders of that bank.

Q. Who are the stockholders? If you know?

A. I don't know that,—I mean I don't know them.

Q. Who are some of them? Do you know some of them?

A. Yes, sir, I am one of them.

Q. Now?

A. Yes, sir.

Mr. McAfee: If your Honor please, I have been reluctant to object, but it seems to me we are going far afield of any legitimate inquiry on cross examination on these issues and I do now object to the questions as calling for testimony entirely irrelevant to any issue in this case.

[fol. 377] Trial Examiner Dudley: I will have to sustain the objection.

Mr. Holmes: My purpose for continuing the examination was merely to show the conditions that the employees have to contend with in this particular community. They have gone into some phases of it, and we feel that we are entitled by cross examination to go into the other phases within the witness's knowledge.

Now, of course, we contend that the fact that the hotels and the banks and all the activities in this particular community center around this particular glass factory and that the control of the entire community is really up to the officers and employees of this particular corporation.

Well, I think if it is a fact, I think that we should have the privilege of showing it in the record as to just what the conditions are down there, and why the employees would not be in a position to do the things they would like to do of their own personal interest, but that they do these things through fear or on account of the position that they have found themselves in.

Trial Examiner Dudley: I will let my ruling stand.

Mr. Holmes: Let me ask you this: You, as the accountant for the Company, do you have to do with the payrolls, in other words?

A. Yes, it would probably be under my department, yes, sir.

[fol. 378] Q. Do you have any rule or precedent, or practice, in your company, or in your department, that if an employee should buy merchandise at one of the stores, either in Crystal City or in Festus, that you have script or a demand order on which you deliver checks or monies to that particular merchant?

Mr. McAfee: I believe I will object to that, unless the question means to insinuate that the company makes a practice. It is true that in Missouri there are many industrial plants, and under the law employees have a right to assign earned wages, and when notice of such an assignment is served on the debtor, he must take notice of it.

Now, I object to your trying to insinuate, unless it is intended to actually prove that that is any plan of a company, and if it is, I ask counsel wherein it would be material to this issue.

Mr. Holmes: Do you have such a plan or practice?

A. We honor assignments when they are served on us, yes, sir.

Q. Well, what do you mean by "assignments"?

A. Assignments of wages.

Q. Assignments of wages. Well, do you know of your own knowledge as to these—some of the stores in Crystal City or in Festus, as to whether or not they are company-owned or not?

A. In Crystal City or Festus?

Q. Yes.

[fol. 379] A. No, sir, they are not company-owned.

Q. Do they have any stores there that are owned by the company?

A. No, sir.

Mr. Holmes: That is all.

Redirect examination.

By Mr. McAfee:

Q. Now, Mr. Pallard, so that there will be no confusion, I will ask that this book which you spoke of a few minutes ago, as the red book, be identified as Respondent's Exhibit No. 1.

(The document referred to was marked Respondent's Exhibit No. 1, for identification.)

Q. Now, Mr. Pallard, does this book which has been marked Respondent's Exhibit No. 1, give the wage rate per hour as now exists in Crystal City?

A. Yes, sir.

Q. In the Crystal City plant?

A. Yes, sir.

Mr. McAfee: All right. By agreement with counsel, we introduce this exhibit in evidence, and on that agreement, if the Examiner will give us leave, we will withdraw it and prepare a copy which we will supply for the record.

Trial Examiner Dudley: Any objection, Mr. Hoffmeister?

Mr. Hoffmeister: No objection.

Mr. Holmes: No objection on behalf of the Union to substituting a copy for the original.

Trial Examiner Dudley: There being no objection, I will admit Respondent's Exhibit No. 1, and offer it and grant [fol. 380] leave for a copy to be substituted.

(The document referred to heretofore marked for identification as Respondent's Exhibit No. 1, was received in evidence.)

Mr. Holmes: With the understanding, however, that we are, or you examiners are to check the copy with the original.

Mr. McAfee: We will be willing to bring the original back.

A. Mr. Pallard, when questions arise, of either decrease in orders or increase in orders, so that there is in one case there is a layoff of labor or a reemployment of labor, how is it decided, and where is it decided, whom shall be laid off in one case or be reemployed in another in reference to the Crystal City plant?

A. Decided in the Crystal City office.

Q. Who takes part in the conference that decides that?

A. The Superintendent and usually a committee.

Q. What I am getting at is do you take part in it?

A. I do not in the lay-offs.

Q. You take part in the re-employment, do you?

A. No, sir.

Q. Do you know the formula that is used in Crystal City in choosing men to be laid off and those to be re-employed?

A. Yes, sir.

Q. What is the formula? What is considered?

A. Well, they consider seniority and company status and community or family status.

Q. What is included in company status?

[fol. 381] A. Well, that is the service record and ability, and so on.

Q. How long has that been in force in Crystal City, so far as you know?

A. So far as I know it has been in force since I can remember.

Q. And the application of the particular cases, as I understand you, is made at Crystal City?

A. Yes, sir.

Mr. McAfee: That is all, thank you. That is all.

Trial Examiner Dudley: May I ask one or two questions? On a hasty examination of Respondent's Exhibit No. 1, and Petitioner's Exhibit No. 7, it discloses some differences in rates of pay. Can you tell us why there are such differences, do you know?

A. No, sir. I don't know the detail on those, or why the differences are.

Trial Examiner Dudley: Well, if you don't know the details, do you have any information on it?

A. No, I don't.

Trial Examiner Dudley: That is all.

Robert L. Clause, a witness called by and on behalf of Respondent, having been previously sworn, was examined and testified as follows:

By Mr. Buchanan:

Q. Mr. Clause, you have already been sworn?

A. Yes, sir.

Q. The question arose yesterday about employment since [fol. 382] January 1, 1938, at Creighton and at Crystal City, respectively. Can you tell me what stocks of plate glass were on hand at Works No. 1 at Creighton and at Works No. 9 at Crystal City as of December 31, 1937?

A. We had in stock at Creighton, in finished, polished plate, one-eighth inch thickness, 6,878,000 feet, in round numbers. At Crystal City we had 1,140,000 feet, in round numbers.

Q. Did either of the plants during the first nine months of this year produce any plate glass?

A. Works No. 1 produced no plate glass.

Q. Did Crystal City produce any plate glass?

A. Excuse me. I think I am accurate in that first statement. I don't think Creighton.

Q. What about Crystal City?

A. Crystal City operated the grinding and polishing departments, because we had to grind and polish the products made from this Pilkington tank which was in the development stage so that we could determine whether the quality was good and whether the changes made in the operation benefited the quality.

Q. What about laminated glass; what was the production of laminated glass during this year, or the early part of this year in these two plants?

A. You are speaking now of laminated glass?

Q. Yes.

[fol. 383] A. From January to August, inclusive, we produced 697,710 feet of laminated glass at Chrystal City.

Q. Did you produce more or less than that amount at Creighton?

A. We produced more at Creighton. We produced 3,415,620 feet.

Q. How does it happen that you had such variations in the production as those you have mentioned?

A. There are two factors which have influenced the production of glass in favor of Creighton. The stock of polished plate glass at Works No. 1 at Creighton is an excessive stock unless it is moved at a rather rapid rate. When the automobile industry folded up in December we found ourselves with this excessive stock on hand, and it was not wise to carry a stock of that size for any great length of time because of the deterioration that can take place in the stock, so that it was our desire to reduce that stock, and the only way we could reduce it was to reduce it in laminated glass, so Works No. 1, Duplate department was favored with orders in that respect. The other factor is, as I stated yesterday, we produced duolite laminated glass made of two sheets of window glass, or sheet glass, as produced at Creighton and not at Crystal City, and we have orders, continuous orders from the automobile people for that type of product, so that again Creighton was benefited by the fact [fol. 384] that they are fitted to be able to manufacture laminated sheet glass.

The figure I have given for Creighton is the total production of laminated sheet on plate glass, whereas the production given at Works No. 9 is for laminated plate glass alone.

Q. Mr. Clause, do you have to do with the fixing of the wage rates at Crystal City and other plants, plate glass plants of your company?

A. Yes, and no.

Q. How far "yes"?

A. Well, I approve the change of wage rates, but as to the actual determination as to what is a fair rate for a certain job, I don't ascertain that question.

Q. What about the average rates of pay of employees at Crystal City and at the other plants, how do they compare with each other?

A. It is quite surprising that the rates of pay at our main plants, our big glass plants, Creighton, Ford City, and Crystal City, will be within one cent every month, one will be up one month and one will be down one month, but they run about 86 to 86.5 an hour average rate.

[fol. 385] Q. At each of the plate glass plants?

A. At each of the plate glass plants. We have records we could produce to show that. I have such a report on my desk once a month.

Mr. Buchanan: Cross-examine.

Mr. Hoffmeister: I have no cross-examination.

Cross-examination.

By Mr. Holmes:

Q. I might just ask one question. After the little labor trouble that you had in 1936 and 1937, when it was finally adjusted, there was an increased rate of pay granted in all the plants wherein the Federation of Flat Glass Workers had members. Now, that same increase in wages and greater pay was immediately given to the employees at Crystal City, was it not?

A. Yes, sir.

Q. And the flat increase in pay that was granted to the employees in the other plants,—the employees at Crystal City were granted a like amount; is that right, the same?

A. The same adjustment was made, yes.

Q. The same adjustment?

A. Approximately, yes.

Q. In other words, you didn't consider one plant to be entitled to any more than the other; is that right?

A. That's right.

Q. When you adjusted the wage scale in the other plants [fol. 386] you did that at Crystal City also?

A. Yes, sir.

Mr. Holmes: That is all.

Mr. Buchanan: That is all. Mr. Examiner, this is sort of away from the discussion. However, I would like to clear

the record on one point, for the sake of the Board or which we need for this record.

Q. Mr. Clause, the terminology throughout this record about including the glass cutters has been including the members of the Window Glass Cutter's League in the window glass plant of your company.

Is it not a fact that all of your window glass cutters in your three Window Glass Plants are members of the window glass cutter's league?

A. That is correct.

Q. And is that not so by virtue of a closed shop contract with that union?

A. That is right.

Mr. Kleeb: That is all.

Mr. McAfee: Off the record.

(Off the record.)

[fol. 387] FRED KEIGHTLEY, a witness called on behalf of the respondent, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Buchanan:

Q. Mr. Keightley, what is your full name?

A. Fred Keightley.

Q. Mr. Keightley, are you an employee of the Pittsburgh Plate Glass Company?

A. I am.

Q. Are you acquainted with the principals of the Pittsburgh Plate Glass Company that makes plate glass and safety glass and window glass?

A. I am.

Q. All of them?

A. Yes, sir.

Q. How long have you been in the employ of the Plate Glass Company?

A. Since January 1, 1935.

Q. Did you ever have a trade?

A. Yes, sir.

Q. When did you first get a trade?

A. You mean when did I learn a trade?

Q. Learn a trade, yes, sir.

A. Rolling mills, and rolling mill heater, known as bar mill heater. That is my trade.

[fol. 388] Q. When did you start to work as bar mill heater?

A. Oh, I would say about 1904.

Q. Did you belong to a union?

A. Yes, sir.

Q. Do you belong to a union now?

A. Yes, sir.

Q. What union do you belong to?

A. Amalgamated Association of Iron & Steel and Tin Workers.

Q. Affiliated with the CIO?

A. Yes, now.

Q. How long have you been a member of that union?

A. Thirty-eight years.

Q. Are you in good standing?

A. Paid up to the end of this year, yes, sir.

Q. Have you ever failed to pay dues?

A. I would not have discarded my pocket card if I had.

Q. In your opinion from the point of view of labor conditions and attitude toward trade unionism, is there a difference between the workers at the plant at Crystal City and the workers at the other plants of the company?

A. I think there is.

Mr. Holmes: Object. Wait a minute.

Trial Examiner Dudley: He may answer.

By Mr. Buchanan:

Q. What would you say the difference is?

A. At Crystal City, beginning with Crystal City, they [fol. 389] have environments—they have no background of union labor in Crystal City. It is primarily an agricultural sector, far enough removed from St. Louis in my judgment——

Trial Examiner Dudley: May I interrupt a second? You are offering this as testimony in the nature of an expert witness.

Mr. Buchanan: Yes, the testimony as an expert witness, but not on an hypothetical case.

Trial Examiner Dudley: No. Cross-examination of an expert witness based on his own observation. I will pursue the qualifications, if you desire.

Trial Examiner Dudley: I don't care, but it is his opinion you are looking for.

Mr. Buchanan: It is opinion based on his own observation.

Mr. Holmes: As an employee of the Pittsburgh Plate Glass Company, you called him as an expert.

Mr. Buchanan: That is admitted.

Q. After you worked as a bar mill heater,—is that the term—what was your next job?

A. That was the last job I had in the rolling mills. Following that I worked in the service of the United States Department of Labor as conciliator for colliers, lacking one month.

—. Were you ever a union official?

[fol. 390] A. Yes.

—. What union offices have you held?

A. I held local offices in the local union of the Amalgamated Association of which I was a member, in Cleveland and Youngstown, Ohio, and later became assistant Secretary, International Assistant Secretary, and later International Secretary-Treasurer. I refused to run for re-election in 1921.

—. How long were you International Secretary-Treasurer of this union?

A. Approximately six years.

Q. During what years were you conciliator, if that is the correct term, for the United States Department of Labor?

A. From February 1, 1922, I think—I may be off a year on this, but I have the old commission at my home—until January 1, 1935. As a matter of fact, I am still on an indefinite leave of absence from the United States Department of Labor. They would not accept my resignation.

Q. Since January 1, 1935, you have been employed by the Pittsburgh Plate Glass Company?

A. Yes, sir.

Q. Continuously until now?

A. Yes, sir.

Q. Mr. Keightley, you may go ahead and state any differences that seem to you to be significant.

[fol. 391] Trial Examiner Dudley: May I interrupt again? What does he do now?

Mr. Buchanan: What is your position now with the Pittsburgh Plate Glass Company?

A. My title is Director of Labor Relations, but like some others, we have heard of here, it is rather a misnomer. I don't know what a Director of Labor Relations is.

Q. What do you do in your present office?

A. I advise with the company officials in the general office and the local plant officials on their labor problems. I sit in the discussions in their monthly meetings, all that I can, attend all the general conferences, not only in the plate glass division and window glass, but in the paint and varnish division, and in a number of the warehouses and in the chemical division also.

Q. Is there any authority delegated to you to settle disputes between the company and the employees?

A. No, sir. I make recommendations.

Q. Well, now, to come back to my question, what differences, if any, are there in the attitude of the employees in general at Crystal City toward labor unionism and the attitude of other employees of the Pittsburgh Plate Glass Company?

A. Well, as I started out to say, in my opinion, the background of no outside unions is bound to affect the men where that condition exists, and so far as my knowledge [fol. 392] goes, some of that is the condition in Crystal City.

Q. In Henryetta there is a background of organization there in the long organized coal mines, the organized oil fields; in Clarksburg the same.

—. There are other window glass plants in Clarksburg organized for many years; so it is only natural that any other glass workers in that vicinity would be organized too. The same thing is true of the fields in the Allegheny Valley. They are in an environment of unionism, so far as the miners go, and at the present time practically everything else.

Q. The steel workers?

A. Steel workers and aluminum workers, and so on.

Q. How about Mt. Vernon, Ohio?

A. Mt. Vernon—Mr. Holmes calls it a suburb of Columbus. There are others who like to think of it as a suburb of Cleveland. Cleveland has always been a city of organization.

Q. I doubt if it is on the record, but I don't suppose there is any objection to your saying whether Columbus is the

capital of the Federation of Flat Glass Workers of America?

A. I believe their headquarters are located there, yes, sir.

Q. Mt. Vernon is almost in the petitioner's home town. Is the community surrounding any of the plants of the Federation of Flat Glass Workers has large unions; similar to the community in Crystal City; so far as the employment of persons in the neighborhood are concerned?

[fol. 393] A. I can only speak for the Pittsburgh Plate Glass Company. They have large unions in other companies that I don't know.

Q. What about their large unions other than the Pittsburgh Plate Glass Workers? Are they in the neighborhood of any of the plants where those unions are predominantly agricultural?

A. Not to the extent that Crystal City is. Mr. Vernon might be the closest to it.

Q. How far is Mt. Vernon from Columbus?

A. Forty miles, I think. I am just guessing at that now.

Q. Someone suggested it was ten miles.

A. Oh, no; it is better than that.

Mr. Holmes: About fifty,

Mr. Buchanan: Cross-examine.

Mr. Hoffmeister: I have no cross-examination.

Cross-examination.

By Mr. Holmes:

Q. There is one statement that I just didn't quite understand, Mr. Keightley. You say there is no background for unionism in Crystal City like there is in other communities where you have plants of the Pittsburgh Plate Glass Company.

In Mt. Vernon, I don't believe those farmers up there ever had a labor organization, before, did they, until they had the glass workers' union up there?

A. Mr. Holmes, I helped to settle labor disputes in Mt. [fol. 394] Vernon six years before I ever knew the Pittsburgh Plate Glass Company.

Q. They never had any particular union there, did they?

A. Yes, the Building Trades Organization. They have been there for many years.

Q. They had no organization so far as the glass industry is concerned, is that right?

A. I don't know. I would not know.

Q. Now, St. Louis isn't more than thirty miles from Crystal City, or forty?

A. That is what I understood. I have never looked it up.

Trial Examiner Dudley: Have you ever been to Crystal City?

A. Yes, sir, many times.

By Mr. Holmes:

Q. Would you say it was about thirty-five or forty miles to Crystal City?

A. I believe.

[fol. 395] Q. Now, that particular community then would just be something similar from Columbus up to Mount Vernon, in fact, it would not be as far? Is that right?

A. That is correct.

Q. Now, just as a matter of mathematics, it would not be as far away from Union activities as Columbus is from Mount Vernon; isn't that a fact?

A. Except for the fact that there has been organization in Mount Vernon for many years.

Q. And there has been some organization in Crystal City for some years, too, hasn't there?

A. We never heard of them. I never heard of this one until April of this year.

Q. Well, they had a company Union there, didn't they?

A. Well, I think there were a good many Company Unions in this country following the N. R. A., most everywhere.

Q. They did have a company organization there, isn't that right?

A. That is right.

Q. And they had it even before the N. R. A., didn't they?

A. I couldn't say, I don't know.

Q. Now, do you know anything about the placing of labor, that is, of moving employees from one plant to the other, do you know anything about that? Does that come within your department or within your jurisdiction?

[fol. 396] A. I don't have jurisdiction over it, but I know of it.

Q. You know of it?

A. Yes, sir, if it exists.

Q. You know it to be a fact, do you not, that they have taken employees from the other plants and interchanged them at different intervals whenever it is necessary, isn't that a fact?

A. That hasn't been to any extent worth mentioning since I have been with the Company.

Q. Well, it has been done, has it not?

A. You mean in my time?

Q. Yes.

A. Only to the extent provided for in the Union agreement.

Q. Well, it has been done then, that is, to the extent that it is provided for in the Union agreement, is that right?

A. Yes. If I am permitted I would like to qualify that.

Q. Oh, I would be glad to let you explain your answer.

A. Well, the obligation of one plant superintendent to employ the laid-off employees from another plant is not compulsory, he is not compelled to do it. They may make application if they are laid off in one plant to another plant, and they are supposed to be given preference for employe-s —for any employment they are qualified for before new employees are hired.

Q. Now, your duties as Director of Labor Relations, I take it that you make more or less visits, do you not, to the different plants, do you, or do you go upon request and call?

[fol. 397] A. No. I attend as many of the monthly meetings provided for in the agreement in the plants where this Union has members as I can.

Q. And you attend also the meetings at Crystal City, do you?

A. I have attended meetings at Crystal City, yes.

Q. Then you take all the information that you gather from these different meetings in these different plants, and then you make your recommendations to whom?

A. To the plant superintendent.

Q. All right. Then, do you make any reports to Mr. Clause or to the organization here at Pittsburgh.

A. If the problem is one that in my judgment the local plant cannot solve, I carry it back to the general office for further consultation.

Q. If that cannot be solved by the local plant, then it is generally the duty—or the headquarters at Pittsburgh does settle it, one way or the other, does it?

A. Well, usually, at least, we haven't had any strikes on that issue that I know of.

Mr. Holmes: I think that is all.

Redirect examination.

By Mr. Buchanan:

Q. Has there been any interchange of employe-s between Crystal City and other plants to your knowledge since you began to work for the Pittsburgh Plate Glass Company?

A. No, sir. I may make a statement on that if it is per-
[fol. 398] missible.

Q. Yes, go ahead.

A. I received a communication from our Duplate Factory in Creighton—I think this is two years ago or in that neighborhood—asking for the permission to be transferred to Crystal City for employment. In checking up on the situation I found that there was some three to four hundred men in Crystal City who had formerly worked for the Company still on the employment lists that were not employed, and after discussing it with Mr. Clause and Mr. Wilson, the general superintendent of the plate glass factories, my answer was that nothing of that nature could be done until these former employes at Crystal City had been absorbed. That was the only instance that was raised at all.

Q. And those former employes were then absorbed, were they?

A. I don't know, I couldn't tell you.

Mr. Buchanan: That is all.

By Mr. Hoffmeister:

Q. Mr. Keightley, since your connection with the Pittsburgh Plate Glass Company, have you had any serious labor disputes or difficulties at the Crystal City plant?

A. No.

Mr. Hoffmeister: That is all.

Mr. Buchanan: The Company rests, Mr. Examiner.

Trial Examiner Dudley: We will recess now until 7:00 o'clock.

(Whereupon, at 5:50 P. M., the hearing was recessed until 7:00 o'clock P. M.)

[fol. 399] Evening Session

(The hearing was resumed at 7:00 o'clock P. M. pursuant to adjournment.)

Trial Examiner Dudley: I call the hearing to order. Are you ready to proceed now, Mr. Hoffmeister?

Mr. Hoffmeister: Yes, Your Honor. I will call Mr. Laiben.

ALPHONSE LAIBEN, a witness produced on behalf of the Intervenor, having first been duly sworn, testified as follows:

Direct examination.

By Mr. Hoffmeister:

Q. Will you please state your name?
A. Alphonse L. Laiben.
Q. Where do you live, Mr. Laiben?
A. Festus, Missouri.
Q. Where are you employed?
A. Pittsburgh Plate Glass Company.
Q. How long have you lived in Festus, Missouri?
A. All my life.
Q. How long is that?
A. It is about thirty-four years, I guess.
Q. How long have you been employed by Pittsburgh Glass Company.
A. About sixteen years.
Q. In what department do you work?
A. The tank department.
[fol. 400] Q. And just what kind of work do you do, Mr. Laiben?
A. I am a leer tender.
Q. How do you spell that?
A. L-e-e-r.
Q. Leer tender?
A. That's right.
Q. Tell us what a leer tender has to do?
A. Well, a leer tender keeps temperature on the leers, that is as the sheet comes from the roll machine, it enters the leer at a temperature of about 1250 degrees and this temperature keeps diminishing through this leer, probably

four hundred feet long, until it is cool enough to cut, and the duties of the tender is to check instruments attached to elements in this leer, record them in a log and make any adjustments that might be necessary to the tempering of this glass.

Q. Is that skilled employment?

A. I should think so.

Q. How long have you been a leer tender?

A. Probably three years.

Q. And is that in connection with the Pilkington process?

A. That's right, Pilkington tank.

Q. Are you a member of the Crystal City Glass Workers Union?

A. I am.

Mr. Holmes: I am objecting for the reason that for the purpose of this proceeding there is no Crystal City Glass [fol. 401] Workers Union, as that Union in former hearings indicate, with which the Court is very familiar, or in the case before the National Labor Relations Board in the matter of the Pittsburgh Plate Glass Company, Plant No. 9 and the Federation of Flat Glass Workers of America, affiliated with the CIO, decided September 23, 1938, the Board made this order: "Withdraw all recognition from the Crystal City Glass Workers Union as representative of the respondent's employees, or any of them, as a labor organization, and notify said organization to that effect."

It is our contention that they have no standing as a bargaining agency, and therefore any testimony respecting the Union is immaterial in this case, and we are objecting to the introduction of any testimony on the part of the Union as an organization. Under the Rules, Section 19, it says: "Any person or labor organization desiring to intervene in any proceeding, shall file a Motion, * * * ". There might be some standing here on that contention to appear as an individual, but certainly not as any labor organization for the reason that the Board has decided that this particular corporation or group of employees has no standing as a labor organization, and consequently it would follow, I should think, that their intervention here would not be proper. We wish to file our objections to the intervention by this Union or organization of employees for that reason.

[fol. 402] Trial Examiner Dudley: Mr. Hoffmeister, are you asking the question for the purpose of further identifica-

tion of the witness, or because you think his membership is material, or for some other reason?

Mr. Hoffmeister: Yes, Your Honor, I want to show that he is a member and also an officer of the Crystal City Glass Workers Union. In fact, he is President of the Crystal City Glass Workers Union, and I want to show how many members that organization has by producing their records here before Your Honor. We are a party to this proceeding. We were not a party to the other proceeding referred to by counsel in his objection. We couldn't possibly be bound by any order that was made in the other proceeding.

Trial Examiner Dudley: I will let him answer the question.

A. What is the question?

Q. Are you a member of the Crystal City Glass Workers Union?

A. I am a member.

Q. Are you an officer of the Union?

Mr. Holmes: Objected to as immaterial.

Trial Examiner Dudley: He may answer.

A. I am President of the Crystal City Glass Workers Union.

Q. How long have you been President?

A. For the past six months.

Q. Is that a corporation, Mr. Laiben?

[fol. 403] A. It is a pro forma free corporation, incorporated under the laws of the State of Missouri.

Q. Do you remember when that decree was granted?

A. The pro forma decree was granted March 3, 1938.

Q. And where was it granted? By what Court?

A. The Circuit Court of Hillsboro, Missouri.

Q. Of what County?

A. Jefferson County.

Q. And does this corporation have by-laws?

A. It does.

Q. Do you have a copy of those by-laws in your possession?

A. I do have a copy.

Q. Will you let me look at it, please?

A. (Witness handed document to Mr. Hoffmeister)

Mr. Hoffmeister: I will ask that this be marked for identification Intervenor's Exhibit No. 1.

(Whereupon the document above referred to was marked as Intervenor's Exhibit No. 1 for identification)

By Mr. Hoffmeister:

Q. This is a copy of your constitution and by-laws; is that correct?

A. It is.

Mr. Hoffmeister: If the Court please, I ask that this be introduced into evidence and made a part of the record.

Mr. Holmes: That is objected to, if the Examiner please, for this reason, that the Act defines the term what is meant [fol. 404] by labor organization. It provides as follows: "The term 'labor organization' means any organization of any kind, or any agency or employee, representation, committee or plan in which employees participate, and which exists for the purpose *for the purpose*, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

Now, our contention is that this particular organization does not come within the requirements of the definition as provided in Section 2, Article 5, defining a labor organization, and also by virtue of the decision of the Board dated September 23, 1938, wherein they made this order: "That the said Pittsburgh Plate Glass Company withdraw all recognition from the Crystal City Glass Workers Union as a representative, representing the employees or any of them as a labor organization, and notify said organization to that effect."

I deny that this organization has any right to represent any of the employees as a bargaining agency in the Crystal City plant, therefore all of this is mere surplusage and has no place in this record, and you will note our objection to the introduction of this particular charter, which on the face of it, appears as a social and educational organization.

Mr. Hoffmeister: First, I ask the Trial Examiner to read the second paragraph.

Trial Examiner Dudley: I am inclined to sustain the [fol. 405] objection. However, I will be glad to hear you. Do you want to argue on the record or off the record?

Mr. Hoffmeister: I want this first part of my argument on the record. This organization, if Your Honor please, under Section 2 of this exhibit that I have offered in evi-

dence, has the power, Section 2 says: "To foster and promote good-will and good-fellowship between the members themselves and between the employees and the employers; and to give the employees a voice regarding working conditions; to provide a more effective contact and relationship between the employees and the employer on matters pertaining to industrial relations, and to provide a means for dealing with the employer on all matters concerning working conditions of the employees." That answers the first argument that counsel made.

(Further argument off the record.)

Trial Examiner Dudley: I call the hearing to order again. On the record. I will overrule the objection and admit Intervenor's Exhibit No. 1 as offered, this being the By-laws adopted at the formation of the Intervenors.

(Whereupon the document above referred to as Intervenor's Exhibit No. 1 for identification, was offered in evidence.)

By Mr. Hoffmeister:

Q. Does the Crystal City Glass Workers Union keep records of its membership?

Mr. Holmes: Objected to as immaterial and as irrelevant.

Trial Examiner Dudley: I will sustain the objection.

[fol. 406] Mr. Hoffmeister: If the Examiner please, I want to make an offer of proof at this time by this witness and other witnesses to prove by competent testimony that the Crystal City Glass Workers Union heretofore testified to, and whose, or its By-laws have been offered in evidence as Intervenor's Exhibit No. 1, has a membership of approximately thirteen hundred employees out of an approximate total of sixteen hundred employees at the Crystal City plant of the Pittsburgh Plate Glass Company, being Plant No. 9, who desire to show by this witness and other witnesses that it be recognized as the appropriate Unit for collective bargaining in Plant No. 9 of the Pittsburgh Plate Glass Company at Crystal City, Missouri.

Mr. Holmes: I move to strike out, of course, the offer and statement.

Mr. Hoffmeister: And further, that they be the appropriate Unit for bargaining in Plant No. 9 at Crystal City, Missouri, of the Pittsburgh Plate Glass Company.

Mr. Holmes: I object to any evidence in support of that particular contention, and that the statement of the attorney representing this supposed organization be not admitted as any part or evidence in this particular proceeding.

Trial Examiner Dudley: I will allow the offer of proof to stand on the record as such. I will sustain the objection.

Mr. Hoffmeister: I would now like to except from the rulings, for the following reasons: First, the ruling of the [fol. 407] Trial Examiner is contrary to and not in accord with the purpose and policy of the National Labor Relations Act, and particularly Section 1. Second, that the ruling is contrary to and denies the petitioners of the rights guaranteed to them under Section 7 of the National Labor Relations Act; also Sections 9-A, 9*0*B and 9-C thereof.

Third, that the ruling is contrary to the ruling of Article 2, Section 19, of the Rules and Regulations, Series 1 as amended, also contrary to Section 30 of Article II. Also contrary to Section 5 of Article III of Rules and Regulations, which provides that it shall be the duty of the Trial Examiner to fully inquire into the question of representation.

Fourth, that the ruling of the Trial Examiner is prejudicial, unjust and unfair to the Crystal City Glass Workers Union, who constitute 1300 out of a total of approximately 1600 employees in Plant No. 9 of the Pittsburgh Plate Glass Company at Crystal City, Missouri, in that it denies said employees their right to be heard and to be represented in this proceeding.

Fifth, that the stipulation referred to, that was heretofore executed between the Pittsburgh Plate Glass Company and the National Labor Relations Board, in which the Federation of Flat Glass Workers of America was a party, this trial and proceeding being before the 14th Region of the Board, Case C-778, decided September 22, 1938, that said stipulation was entered into by and between the parties, to which the Crystal City Glass Workers Union was not a [fol. 408] party, and was not a party to the stipulation itself, therefore the Crystal City Glass Workers Union could not be and is not bound thereby.

Sixth: That the matters determined or agreed upon in said stipulation were never legally adjudicated so far as

the Crystal City Glass Workers Union is concerned, it never having had an opportunity to be heard or objected to, and amounts to an arbitrary finding against said Crystal City Glass Workers Union, which is wholly unfair and unjust, and should not be used against it in the present proceeding.

Seventh: That the ruling of the Trial Examiner at this time deprives the Crystal City Glass Workers' Union of due process of law as guaranteed to the Crystal City Glass Workers Union under the Constitution of the United States of America, and further deprives said Crystal City Glass Workers Union of the equal protection of the law guaranteed to it by the Constitution of the United States of America.

I just wanted to read those exceptions.

Mr. Buchanan: If the Examiner please, on behalf of the Pittsburgh Glass Company, I note an exception to Your Honor's ruling excluding the proof offered by Judge Hoffmeister. I think perhaps I should put on the record that the Company believes that this proof should be received as evidence of the desires of the men themselves with regard to the agency for collective bargaining and because [fol. 409] of the deprivation of their constitutional rights, by concluding them on this subject without a hearing. This concluding the Crystal City Glass Workers Union on the subject without a hearing will leave them free to prosecute further proceedings against the company, whatever might be the decision of the Board and the Courts in this case.

Mr. Hoffmeister:

Q. Mr. Laiben, did you have anything to do with circulating a petition among the employees of the Pittsburgh Plate Glass Company at Crystal City, recently?

Mr. Holmes: Objected to as immaterial, whether he has a petition.

Trial Examiner Dudley: Will you read the question, please, Mr. Reporter.

(The Reporter read the previous question).

Trial Examiner Dudley: I will allow him to answer it.

Mr. Hoffmeister: All right.

A. I did.

Q. I will show you a document here consisting of one written or typewritten page, and then a lot of other pages, that are signed with signatures, and ask you whether you can identify the document?

A. I can.

Q. And did you have anything to do with getting those signatures on that paper?

A. I did. In fact, I stood upon the street as the em-
[fol. 410] ployees came from work.

Q. Where at?

A. Mississippi Avenue.

Q. Where at? In Crystal City?

A. Crystal City, and while this petition was in my hands, probably two hundred employees signed this petition through their own volition, after explaining and showing them the heading on this petition.

Mr. Holmes: I object to the testimony and ask that it be stricken out as immaterial, irrelevant and not proper in this proceeding.

Trial Examiner Dudley: Objection overruled.

Mr. Holmes: Will you note an exception, please?

Mr. Hoffmeister:

Q. Mr. Laiben, under your supervision, were other petitions similar to that petition, with the same Page 1 attached to it, circulated amongst the employees?

A. There were many such petitions, all with the same heading.

Q. With the same heading? By that you mean the same Page No. 1?

A. That is right.

Q. Have you some of those other pages in your possession?

A. I do have some of those pages which were attached to the pages that the employees signed their names on.

Q. Can you tell us how this large petition, the first paper I handed you, happened to be fixed in its present condition?
[fol. 411] A. Well, it happened that we wanted,—we heard that there was going to be a hearing——

Q. You misunderstood my question. How did the petition happen to be in its present condition? What happened to the other sheets?

A. What happened to the other sheets?

Mr. Hoffmeister: I will hand you, Mr. Reporter, three pages, and I will ask you to mark them; will you have this first one marked Intervenor's Exhibit No. 2?

(Whereupon the document above referred to was marked for identification as Intervenor's Exhibit No. 2).

Mr. Hoffmeister: And will you mark these as Intervenor's Exhibits Nos. 3-a, 3-b, and 3-c?

(Whereupon the documents above referred to were marked for identification as Intervenor's Exhibits Nos. 3-A, 3-B and 3-C.)

By Mr. Hoffmeister:

Q. Mr. Laiben, Exhibits Nos. 3-A, 3-B and 3-C, did they have other pages attached to them at one time?

A. They did.

Q. What were on those other pages?

A. Each and every one of these headings had attached to them pages with blank lines on them.

Q. Were those blank lines written on later?

A. They were not; there were no signatures written on any of these petitions without the heading attached.

Q. Without the heading attached,—but were they even-
[fol. 412] tually filled in with the headings attached to them?

A. They were eventually compiled into this one petition.

Q. They were eventually compiled into Exhibit No. 2?

A. That is correct.

Q. Do you know how many signatures were obtained to this Exhibit No. 2?

A. I believe there were 1334.

Mr. Hoffmeister: If Your Honor please, I ask that Intervenor's Exhibit No. 2 and No. 3-A, 3-B and 3-C be offered in evidence.

Mr. Holmes: We certainly object to the introduction of a petition of that kind in evidence, being irrelevant, not proper to show the wishes of the individual employees or members of this claimed Union at Crystal City. It has no place at this hearing, it is not proper evidence.

Mr. Buchanan: We ask for the records.

Trial Examiner Dudley: I will admit the exhibits for such weight as it may have.

(Whereupon the documents heretofore marked for identification as Intervenor's Exhibits Nos. 2 and 3-A, 3-B and 3-C, were admitted in evidence.)

Mr. Holmes: Please note an exception on behalf of the Federation of Flat Glass Workers.

Mr. Hoffmeister:

Q. How many signatures are there to this petition, Mr. Laiben?

A. I believe 1334, as to the best of my knowledge.

Q. Mr. Laiben, are any of these signatures on there clerical employees?

A. There very probably is.

[fol. 413] Q. How many?

A. Between fifty and sixty, I imagine.

Q. Between fifty and sixty employees?

A. That is right.

Q. Well then, excluding the clerical employees, there remain about 1270 signatures?

A. 1270, that is right.

Q. Are they all employees of the Crystal City Plant at the Pittsburgh Plate Glass Company?

A. To the best of my knowledge they are all employees.

Q. Have you read all the signatures on this petition?

A. I have.

Q. Do you know the individuals who have signed it?

A. I know practically every man employed in that plant.

Mr. Hoffmeister: Cross-examine.

Mr. Holmes: No Cross-examination. We feel that any testimony on the part of this witness is wholly immaterial and improper in this proceeding.

By Trial Examiner Dudley:

Q. What kind of work did you do before the Pilkington tank was installed at Crystal City?

A. I did the same type of work on the old tank.

Q. What kind of a tank was that?

A. Well, Your Honor, I just couldn't tell you the name of it.

Q. Is that a Creighton process tank?

A. That is it.

[fol. 414] Q. Was it?

A. Yes, sir.

Q. How long did you work on that?
A. I should say two years.
Q. Did you ever make glass out there by the use of pots?
A. Yes, sir.
Q. Do you know when they stopped doing that?
A. Well, not exactly, but I should say a year ago.
Q. You worked there, did you, when they worked the pot process?
A. I did, Your Honor.
Q. What did you do then?
A. I was an operator of a teeming crane.
Q. How long did you work in that position?
A. About seven years.
Q. Did that have any direct connection with temperatures and melting and so forth in the pots?
A. Well, it had no connection with melting, but in this manner. The pot was taken from a soaking oven and set on a turn table. I then caught it up with the crane, brought it up to the rolling machine, poured the metal of this pot onto this rolling machine.
Q. Is that work being done now at the plant?
A. It is not at Crystal City.
Q. Was it abandoned when you introduced the Creighton tank?
[fol. 415] A. It had not.
Q. Was it abandoned when you introduced the Pilkington tank?
A. Yes, sir.

Trial Examiner Dudley: That is all I have.
Mr. Hoffmeister: That is all.

(Witness excused.)

Mr. Hoffmeister: Mr. Charles Doan Noce.

Charles Doan Noce, a witness produced on behalf of the Intervenors, being first duly sworn, testified as follows:

Direct Examination.

By Mr. Hoffmeister:

Q. Will you give us the name, please?
A. Charles Doan Noce.

Q. Mr. Noce, where do you live?

A. Crystal City, Missouri.

Q. And how long have you lived there?

A. About twenty-nine years.

Q. Are you employed in the Pittsburgh Plate Glass Company's Plant No. 9 at Crystal City?

A. I am.

Q. How long have you been employed there?

A. Off and on for about twelve years. Steadily for about the last four years.

Q. And what kind of work do you do in that plant?

[fol. 416] A. I am a control operator in the grinders and polishers.

Q. How long have you been a control operator?

A. I have been a control operator for about three years.

Q. And what did you do before that?

A. Before that I had the capacity of clerk on the yard.

Q. Mr. Noce, I show you Intervenor's Exhibit No. 2 and ask you whether you are familiar with that exhibit?

A. I am familiar with it.

Q. Did you procure any of those signatures on that exhibit?

A. I did.

Q. About how many did you get?

A. Between 250 and 500.

Mr. Holmes: The same objection, Mr. Examiner, as was made to the other witness, and overruled, I suppose, and note my exception.

Trial Examiner Dudley: Objection overruled and exception granted.

By Mr. Hoffmeister:

Q. How did you go about getting those signatures?

A. Well, in several different manners. The majority of the members we received by standing on the street corner and intercepting the members as they would go in and return to work, showing them the petition and having them read it, and explaining it to the best of our ability and asking them if they wished to sign it. And another manner, [fol. 417] we would take our car and go to the individual's house, due to the peculiar situation at the plant at this time, their not working steadily at this time, and we couldn't contact them on the street, and we would go to the house

and ask them if they wished to be a party to this particular petition.

Q. And in that way you secured between four hundred and five hundred signatures?

A. Yes, I did.

Q. Were there other copies in the hands of other individuals to get signatures in the same way, to your knowledge?

A. Yes; there were quite a number of them.

Mr. Hoffmeister: Cross-examine.

Mr. Holmes: No cross-examination for the same reason.

Mr. Hoffmeister: That is all.

Trial Examiner Dudley: That is all. Thank you very much.

(Witness excused.)

Mr. Hoffmeister: That is all, Your Honor.

Mr. Buchanan: I would like to call one witness, Mr. Keightley.

FRED KEIGHTLEY, a witness recalled on behalf of the Respondent, having been previously sworn, testified as follows:

Direct examination.

By Mr. Buchanan:

Q. Mr. Keightley, there has been some evidence here [fol. 418] with regard to the use of non-farming land in the neighborhood of Crystal City for a country club for the employees. Will you state what the policy of the company is with regard to existing athletic activities of employees at other plants?

A. It is the policy of the company to assist in a financial way or any other way all athletic associations or movements in all the plants.

Q. Well, now, what are some of the things that the company does?

A. Financing baseball teams to the extent of furnishing uniforms and equipment, or basketball teams, or things of that sort.

Q. That is all.

Mr. Holmes: No cross-examination.
Trial Examiner Dudley: That is all.

(Witness excused.)

Trial Examiner Dudley: Do you have any Rebuttal, Mr. Holmes?

Mr. Holmes: Yes, I will call Mr. Maupin.

LESLIE MAUPIN, called in Rebuttal on behalf of the petitioners, having first been duly sworn, testified as follows:

Direct examination.

By Mr. Holmes:

Q. Will you state your name, please?
[fol. 419] A. Leslie Maupin.
Q. Will you spell your last name?
A. M-a-u-p-i-n.
Q. Where do you live?
A. Crystal City.
Q. What is your business or employment?
A. I work for the Pittsburgh Plate Glass Company.
Q. In what capacity?
A. In the ware room as a cutter's helper.

Mr. Holmes: Mr. Reporter, will you mark this Petitioner's Exhibit No. 10?

(Whereupon the document referred to was marked as Petitioner's Exhibit No. 10 for identification.)

By Mr. Holmes:

Q. I will ask you state, if you know, what Petitioner's Exhibit No. 10 is?
A. I do.
Q. What is it?
A. Why, it is a petition of the men that work for the Pittsburgh Plate Glass Company that we had at our headquarters, that they came in and signed, and that I took to the Notary myself and had notarized.
Q. And that is the signatures of the various employees of the Pittsburgh Glass Company that is attached to that petition?

A. That is right.
Q. And you saw them sign?
[fol. 420] A. Absolutely.

Mr. Holmes: I ask to have this Exhibit No. 10 admitted in evidence.
Mr. Buchanan: No objection.
Trial Examiner Dudley: There being no objection, it will be admitted in evidence as Petitioner's Exhibit No. 10.

(Whereupon the document heretofore marked as Petitioner's Exhibit No. 10 for identification, was received in evidence.)

Mr. Holmes: Mr. Reporter, for the purpose of identification, will you mark this as Petitioner's Exhibit No. 11, being thirteen sheets.

(Whereupon the document referred to was marked as Petitioner's Exhibit No. 11 for identification.)

Mr. Holmes: I present to you (addressing Mr. Buchanan and Mr. Hoffmeister) Petitioner's Exhibit No. 11, being affidavits of employees with respect to the signing of this exhibit that you have presented.

By Mr. Holmes:

Q. I will hand to you Petitioner's Exhibit No. 11, consisting of some thirteen affidavits. I will ask you to state, if you know, how those various signatures were obtained, and where they were obtained.
A. They were obtained in Pete Terry's office. Each separate individual that came over to headquarters and told us of signing these petitions.

Mr. Hoffmeister: Objected to because it is purely hearsay, what they told him.

[fol. 421] A. It is not hearsay.

Trial Examiner Dudley: How do you know that?
The Witness: Each one of these is sworn to.

By Mr. Holmes:

Q. Did they tell you personally?
A. Absolutely, each one of them.

By Trial Examiner Dudley:

Q. Do you mean Pete Terry told you?

A. No, sir, I mean each individual told me himself. As President of the Local they came to me and I told them to come and make a sworn statement as to how they signed it.

Q. All those individuals who signed those affidavits, are they all employees of the Crystal City Plant of the Plate Glass Company?

A. Yes, sir.

Q. And are they members of your organization?

A. Yes, sir.

Q. And did you see them sign this affidavit?

A. Absolutely.

Q. And those are their signatures on the original affidavits?

A. That is right.

Cross-examination.

By Mr. Buchanan:

Q. Mr. Maupin, is any signer of any of these affidavits in the Court room this evening?

A. No.

Q. Is any of them in Pittsburgh?

[fol. 422] A. Not that I know of.

Mr. Holmes: I am asking to introduce Petitioner's Exhibit No. 11 for the purpose of the record.

Mr. Buchanan: I object to the admission of this testimony because it consists of a lot of averments by persons who are not subject to cross-examination by the parties to this proceeding. As to many of the affidavits, I object on the ground of irrelevancy and immateriality, as well as incompetency, and particularly because they make charges that cannot be introduced in this proceeding of unfair labor practices on the part of the Pittsburgh Plate Glass Company, which charges we have no opportunity to meet, without being confronted by the witnesses against us.

Mr. Hoffmeister: I make the same objection and further, that this is nothing but an ex parte statement.

Trial Examiner Dudley: I will overrule the objection. It seems to me that it relates to the petition of the Intervenors. The exhibit is admitted as follows:

(Whereupon the document heretofore marked as Petitioner's Exhibit No. 11 for identification, was admitted in evidence.)

Mr. Buchanan: May I call your Honor's attention that in the case of the Intervenor's Petition, the averments were relevant to the proceedings, and moreover, the witness who testified to that petition was here in Court and subject to [fol. 423] cross-examination as to the signatures to the petition. Now, these averments of the gravest character are put into this record and proved without our having any opportunity to cross-examine the persons who are attempting to make themselves witnesses at long range and f-ee from the risk from cross-examination, which is the sole protection of the parties against whom their charges are made.

Trial Examiner Dudley: Objection overruled.

Mr. McAfee: I would like to ask Your Honor to rule that only those parts of the affidavits which have to do with signatures on the Petition,—in view of Your Honor's ruling, to which, of course, we except, that those extraneous parts be not considered.

Trial Examiner Dudley: Perhaps I can clarify that by saying that I am permitting it as pertaining to the accuracy of character of the petition, which was introduced as Petitioner's Exhibits No. 2, and not as any alleged act of fraud.

Cross-examination.

By Mr. Hoffmeister:

Q. You are President of the Federation of Flat Glass Workers of America; is that correct?

A. That is right.

By Mr. Buchanan:

Q. Mr. Maupin, what records of the Local Union of which you are President, have been brought to Pittsburgh?

A. The Financial Secretary takes care of the records. He [fol. 424] is here.

Mr. Buchanan: Is that the gentleman who is on the stand?

Trial Examiner Dudley: No, he is the President.

Redirect examination.

By Mr. Holmes:

Q. Might I ask, Mr. Maupin, were you present in the plant at any time when that petition was filed here by the Crystal City Glass Workers Union, was being circulated?

A. When the petition was signed?

Q. No, when they were being circulated. Did you see them circulated there in the plant?

A. Yes, I seen them circulated. I seen them wait outside at the plant door on company ground.

Q. And do you know some of the men who were circulating them?

A. Yes, sir, I could name you a few of them.

Q. Who were they?

A. Ed Sims for one.

Q. What does he do?

A. He is Vice-President of the C. C. G. W. U.

Q. Vice-President?

A. Yes, sir.

Q. All right. Now, who else?

A. Elmer Grawl.

Q. What is his connection?

A. I couldn't tell you. He works on the Duplate at the [fol. 425] tank. I don't know him personally. I just know him to see him.

Q. Is he an officer of the Union down there?

A. He is some kind of a representative shop steward or something.

Q. And they were having these petitions signed on company property?

A. Yes, sir.

Mr. Hoffmeister: Just a minute. He didn't testify to that.

Mr. Holmes: He said right outside the gate.

A. That is company property right outside the gate. I saw Mr. Purcell,—that was not on company property. I seen him on Sunday right in front of my house, and then I went out and asked the man if he knew what he signed and he said he didn't.

Mr. Hoffmeister: Objected to as hearsay.

Mr. Buchanan: I move that it be stricken out.

Trial Examiner Dudley: Motion denied. We will let it stand.

Q. Is that all you know surrounding the circulating of these petitions?

A. No, there are several more. I can't think of them offhand. Charles McNulty.

Q. What is he?

A. He is a cutter in the wareroom.

Q. Does he hold any office or position in the Glassworkers [fol. 426] Union down there?

A. I couldn't say whether he does or not.

Q. Anyone else?

A. No, I think that is all I have seen outside of Mr. Noce and Mr. Laiben. I seen him standing on the corner, but that wasn't company property.

Q. That is all.

Cross-examination.

By Mr. Buchanan:

Q. Did you ever distribute any literature in behalf of the Federation of Flat Glass Workers on company ground?

A. What is that?

Q. Didn't you ever distribute any literature on behalf of the Federation of Flat Glass Workers on the company property?

A. Intentionally I didn't.

Q. I didn't hear.

A. I say myself I didn't; I didn't at no time.

Q. But members of the Union have done it, don't you think?

A. That is possible.

Q. You don't know of any law against it, do you?

Mr. Holmes: Objected to. That is argumentative.

Mr. Buchanan: That is argumentative. I just asked him if he knew. That is all. You can be argumentative on cross-examination.

Trial Examiner Dudley: Any more questions?

[fol. 427] Mr. Holmes: That is all.

Trial Examiner Dudley: Do you have any more witnesses?

Mr. Holmes: I have one more, Mr. Vaughn.

Monroe Vaughn, a witness produced by and on behalf of the petitioners, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Holmes:

Q. Will you state your name to the Examiner, please?

A. Monroe Vaughn.

Q. How do you spell your last name?
A. V-a-u-g-h-n.
Q. Where do you live?
A. Crystal City, Missouri.
Q. And what is your business or occupation?
A. I am second sand graderman.
Q. Just what are the duties of a second sand graderman?
A. Well, they tend to the sand that the grinderman grinds the glass with and sees that a certain percentage of sand is kept.
Q. Are you employed by the Pittsburgh Plate Glass Company in the Crystal City Plant?
A. Yes, sir.
Q. How long have you been such an employee?
A. About eighteen years.
[fol. 428] Q. And was your father before you an employee in that same company or factory?
A. He is yet.
Q. He is yet?
A. Yes.
Q. And how about your grandfather, was he a glass man, too?
A. Well, it might have been if they would let him work.
Q. We had some testimony as to the exchange of employees between the different plants. Will you state to the Examiner whether or not from your knowledge employees in Crystal City have been interchanged with other plants and vice versa?
A. Well, I think they have.
Q. Not what you think, what you know.
A. Well, I know they have.
Q. Where?
A. In Crystal City, between Crystal City Plant and Creighton.
Q. What was the purpose of that exchange?
A. Well, I don't know what the purpose of it was.
Q. Well, what kind of employees were interchanged?
A. Well, they were maintenance men that came from Creighton, Pennsylvania, to Crystal City when the Duplate was being set of, and after that they were sent back to Creighton, and then later on when the Duplate Department started, they were—well, I would say six or seven fellows from Creighton, Pennsylvania, sent from Crystal City to work in the Duplate Department at Crystal City.

[fol. 429] Q. Do you know of any other interchange of employees between the different plants?

A. Yes.

Q. Where?

A. From Kokomo, Indiana.

Q. To where?

A. To Crystal City.

Q. And what type of work did those employees do?

A. Well, I don't know what they done in Kokomo, Indiana, but they are working in the warehouse at Crystal City.

Q. In what capacity?

A. I don't know; I don't work in that department.

Q. Do you know whether any employees have been interchanged with any other plants other than the ones that you have enumerated? Any other plants, rather?

A. Not that I can recall, right now.

Q. How about Crystal City, Missouri. Do you know anything about interchange of employees between that plant and Ottawa?

A. There has been fellows sent from Crystal City to Ottawa and worked and then from Ottawa back to Crystal City.

Mr. McAfee: We object to Ottawa. We have no plant at Ottawa.

Trial Examiner Dudley: Mr. Clause said Ottawa.

Mr. McAfee: No, that was another company.

[fol. 430] Mr. Holmes: What I was trying to get at was whether or not the type of work being done in Crystal City in the way of making plate glass is any different from the making of plate glass in any other plant.

Cross-examination.

By Mr. Buchanan:

Q. Have you worked in any other plant of the Pittsburgh Plate Glass Company than at Crystal City?

A. Never in my life.

Mr. Buchanan: Objected to as incompetent.

Trial Examiner Dudley: I will let him answer that.

A. What was the question?

(The Reporter read the previous question.)

Trial Examiner Dudley: I will allow him to answer the question. If you know; you said you didn't know, didn't you?

The Witness: No, I said I never worked in any other factory.

Trial Examiner Dudley: Do you know the operations of the different plants?

The Witness: From what the officials say, they are the same.

By Mr. Buchanan:

Q. Have you seen the operation?

A. I said I have never been at any other factory.

Q. Have you seen the operation at any other plant than the Crystal City Plant?

A. No, sir; I have not.

[fol. 431] Mr. Buchanan: I object.

Trial Examiner Dudley: Did you get your information from any of the officials of the company, of the Pittsburgh Plate Glass Company at Crystal City?

A. Yes.

Q. From whom did you get it?

A. From Mr. Conley.

Q. Who is he?

A. He is Department Superintendent of the Grinding Department.

Q. And he made the statement to you, did he?

A. Yes, sir.

Trial Examiner Dudley: I will let it stand.

Mr. Buchanan: I object further to the witness testifying to what Mr. Conley said to him without any evidence of Conley's agency on behalf of the company, and move that the answer be stricken out.

Trial Examiner Dudley: I will allow it for what it is worth.

Re-direct examination.

By Mr. Holmes:

Q. How long did you say you had been an employee of the Pittsburgh Plate Glass Company at Crystal City?

A. About eighteen or nineteen years.

Q. Are you in a position to know the characteristics of [fol. 432] the community down there as to home loving population that you have?

A. Yes, I think so.

Q. What would you say as to that qualification, as to whether it is any different from any other community you have ever been in?

A. Well, it is more or less dominated——

Mr. Buchanan: I object to the answer as not responsive to the question, irrelevant and gratuitously offered by the witness in order to interject into these proceedings something which under unanimous ruling he knows, having been in the Court room, has no business in this case. I am getting tired of this kind of questions. I asked Judge Holmes to charge his witnesses not to put into these proceedings any things that are not relevant.

Mr. Holmes: I haven't asked that question.

Mr. Buchanan: No, but the witness has heard the argument.

Mr. Holmes: Don't get mad at me for it.

Trial Examiner Dudley: What is the next question?

The Witness: I don't know as I know the answer to my question as their being home loving.

Mr. Buchanan: I ask that it be stricken out.

By Mr. Holmes:

Q. Did you say that they were or were not?

A. Were not what?

Q. Home loving?

[fol. 433] A. Yes, I said they were home loving. I said they were dominated.

Q. Dominated? What do you mean by that?

Mr. Buchanan: Objected to as irrelevant and immaterial.

Trial Examiner Dudley: I will let him answer.

A. Well, up until a year ago I would say a man was afraid to speak his mind in regards to organized labor.

Mr. Buchanan: If Your Honor please, I move that that answer be stricken out as irrelevant and immaterial. We have no complaint case here; there is no charge against us, and we are not prepared to answer such allegations on the part of the witness.

Trial Examiner Dudley: The objection is overruled.

By Mr. Holmes:

Q. How long have you been an employee of the Pittsburgh Plate Glass Company?

A. About eighteen or nineteen years.

Mr. Buchanan: That is the third time you asked.

By Mr. Holmes:

Q. What positions or activities have you been engaged in insofar as the social functions of the community have been concerned with respect to the Country Club, and the activities on the Board of this organization that preceded the present organization that you now have? What connection did you have, if anything, in those organizations?

A. Well, in the Country Club I was Secretary of that organization and helped with the Shop Ball League.

[fol. 434] Q. How about the other organizations that you had during the period of NRA. What position did you have in that organization, if any?

A. I was grinding department representative.

Q. Well, now, as grinding department representative, what were your duties?

A. To try to present grievances.

Q. Well, now, how would you present grievances, or how were they present- then and how are they presented now?

Mr. McAfee: I object to asking about orvanization not now in existence. It cannot possibly have any bearing here; I think it cannot help but confuse the record. It is not Rebuttal; it has not been gone into by anyone.

Mr. Holmes: Probably correct, and I withdraw my question.

Cross-examination.

By Mr. Buchanan:

Q. When was the Duplate Department put into operation in Crystal City?

A. Sometime in 1935.

Q. How many men did you say came from Creighton to Crystal City when the Duplate Department was put into operation?

A. Six or seven. I don't know exactly which.

Q. Did they all go back to Creighton?
A. They are still there.
Q. Are they supervisors?
A. They are.
[fol. 435] Q. Supervisors?
A. Yes.
Q. You spoke about some men going away and coming back. I will withdraw that. It was probably withdrawn on direct examination and need not be gone into. You said something about a man or men coming from Kokomo to Crystal City. When was that?
A. Well, that was, I would say, four or five years ago.
Q. What kind of employees was it that came from Kokomo?
A. He was a *a* glassworker in the warehouse.
Q. Just one?
A. No, there was two that I know.
Q. Who are they? What are their names?
A. Cook is the name of one, and I can't recall the other fellow's name.
Q. Do you recall any other men besides the Kokomo men and the supervisors from the Duplate Department that came from any other plant of the Pittsburgh Plate Glass Company to Crystal City?
A. The maintenance men came there to help fit up the Duplate Department.
Q. And did he go back?
A. Yes, sir.
Q. So far as you know, there is just Cook and possibly one other man you claim you don't recall, and some super-
[fol. 436] visors who have come from any other plant of the Pittsburgh Plate Glass Company to Crystal City?
A. That is right, although I could give you a little history on that.
Q. Well, I don't want any history.
A. In regard to the intelligence of the people.
Q. You have answered my question.

Redirect examination.

By Mr. Holmes.

Q. However, you may explain your answer if you care to explain it.

A. In 1929, when the Pittsburgh Plate Glass Company built the new G. & P. Unit in the winter of 1929 and 1930, there were men sent from Crystal City to Ford City, Pennsylvania, to learn the process, the new process of grinding and polishing glass. Now, those men came out here, came back and run that Unit. Then in 1935, when the Duplate was set up, the men it didn't seem were intelligent enough then to go to Creighton and learn the Duplate process, but they had to send the Duplate men from Creighton out there to teach them fellows and keep them there.

Q. Those are the supervisors you have already testified to?

A. Yes.

Mr. Buchanan: No further cross-examination.

Mr. Holmes: That is all. That is now the end of the Rebuttal.

[fol. 437] Trial Examiner Dudley: Is there any Sur-Rebuttal?

Mr. Buchanan: No further testimony, Your Honor.

Trial Examiner Dudley: Do any of the parties have any other additional testimony of any kind that they wish to introduce at this hearing? There being no response, I assume not.

Do any of the parties have any motions they wish to make? There being no response, I assume not.

Do any of the parties have any additional matters that they wish to bring before me at this hearing?

Mr. Buchanan: Just a moment, Your Honor. There may be a motion.

Mr. Hoffmeister: I want to file a motion, Your Honor, to the effect that the Crystal City Glass Workers Union be included on the ballot with reference to the consideration of the appropriate agency for collective bargaining.

Mr. Holmes: Objection being noted by the Federation of Flat Glass Workers of America, as said organization has no standing. By the formal order of the National Labor Relations Board, they are prohibited,—or rather the Pittsburgh Plate Glass Company is prohibited by said order from having any labor relations with the said Crystal City Glass Workers Union.

Mr. Buchanan: Your Honor will recall that I made a motion, and I think that covered the company's position.

Trial Examiner Dudley: I, of course, will not rule on the [fol. 438] motion, but ruling will be reserved to the Board.

Are there any motions or other matters of any kind that anybody wants to bring before me before we close this hearing?

Before we close the hearing, I wish to inform you that in this type of cases, the Examiner does not file an Intermediate Report. Any decision is determined by the Board.

I wish to notify you further that the parties may file Briefs or may argue their respective cases orally before the Board itself in Washington, providing they file written request for such argument in this matter within ten days of the close of the hearing. That means within ten days from today you must file a written request to the Board in which you ask for the privilege of filing Briefs and/or making oral argument before the Board. The time for submitting Briefs or making the argument will then be determined by the Board.

If there are no further matters to come before me, I now declare the hearing closed and direct that it now be closed.

(Whereupon the hearing in the above entitled matter was closed).

[fol. 439] BOARD'S EXHIBIT No. 5-A

Cleveland, Ohio, January 18, 1939.

Mr. R. L. Clause, Executive Vice President, Pittsburgh Plate Glass Company, Statler Hotel, Cleveland, Ohio.

DEAR MR. CLAUSE:

Relative to our conversation this morning concerning your Company's attitude on the National Labor Relations Board certification of Crystal City. I have submitted your proposal to the delegates from the plants of your Company.

Following long discussion it was decided unanimously to inform you that we are ready for negotiations on the following subjects: preferential clause, wage differentials, speed question, incentive system and Crystal City. The conference will include a representative from Crystal City.

I would appreciate an immediate reply.

Sincerely yours, —— ——, President, Federation of Flat Glass Workers of America, Hotel Olsted, Cleveland, Ohio.

[fol. 440] BOARD'S EXHIBIT No. 5-B

Hotel Statler, Cleveland

(Remainder of letterhead omitted)

January 18, 1939.

Mr. Paul W. Fuller, President, Federation of Flat Glass Workers of America, Olmstead Hotel, Cleveland, Ohio.

DEAR MR. FULLER:

I answer your letter of today. In accordance with my agreement with you of about December 22, 1938, the representatives of Pittsburgh Plate Glass Company are ready to discuss modification of the uncancelled agreement, now in force, concerning matters mentioned in your letter, except Crystal City, and concerning matters mentioned in Mr. Goodwillie's letters to you of January 3rd and 9th.

Concerning Crystal City I am advised that matter is not appropriate for discussion pending final determination of the rights of all parties under procedure provided in National Labor Relations Act, as interpreted by the courts and especially in United Employee's Association v. National Labor Relations Board. (96 F. 2d 875)

Therefore there is no occasion for the presence of a representative of Crystal City at the impending meeting.

Sincerely yours, (S.) R. L. Clause, Vice President, Pittsburgh Plate Glass Company.

P. S. I enclose paper which I am advised states the holding of the court in the above mentioned case.

[fol. 441] Hotel Statler, Cleveland

(Remainder of letterhead omitted)

United Employees Ass'n v. National Labor Relations Board

No. 6656

1. Master and Servant—16

Though status of labor union as exclusive representative of employees for collective bargaining is reviewable at the proper time, certification of particular union as such representative by National Labor Relations Board is not a "final

order" or "order" and is not reviewable. National Labor Relations Act 9 (c); 10 (a, f); 29 U. S. C. A. 159 (c), 160 (a, f).

Ed. note—For further definitions of "Final Order" and "Order" see Words & Phrases.

2. Master and Servant—16

A mere certification that named labor union is exclusive representative of employees for collective bargaining, made by National Labor Relations Board, may be entirely ignored by employer and rival union until final order commanding employer to do something is entered. National Labor Relations Act 9 (c), 10 (a, f), 29 U. S. C. A.; 159 (c), 160 (a, f).

96 F. 2d 875.

[fol. 442] BOARD'S EXHIBIT No. 5-C

Cleveland, Ohio, January 19, 1939.

Mr. R. L. Clause, Executive Vice President, Pittsburgh Plate Glass Company, Statler Hotel, Cleveland, Ohio.

DEAR MR. CLAUSE:

We understand from your letter of January 18th that you refuse to meet with us in conference to discuss modification of agreement if Crystal City and the question of a representative of Crystal City is included.

If the above is true then this conference will be called off for the present time because the Federation of Flat Glass Workers of America insists that Crystal City be included in any agreement with your company as certified by the National Labor Relations Board.

It is my understanding that the present agreement will be continued. Will you agree to meeting in another conference for the same purposes when the Circuit Court of Appeals renders a decision? In other words, this would be considered postponement of present conference until that time.

Your immediate attention to this matter will be greatly appreciated.

Sincerely yours, —— ——, President, Federation of Flat Glass Workers of America, Hotel Olmsted, Cleveland, Ohio.

[fol. 443] BOARD'S EXHIBIT No. 5-D

Hotel Statler, Cleveland

(Remainder of letterhead omitted)

Cleveland, Ohio, January 19, 1939.

Mr. Paul W. Fuller, President, Federation of Flat Glass Workers of America, Hotel Olmsted, Cleveland, Ohio.

DEAR MR. FULLER:

I answer your letter of today.

We are willing to postpone the present conference.

Since the National Labor Relations Board cannot properly waive its right of review by the Supreme Court, we must reserve the same right.

This leaves our present agreement in force until January 31, 1940, subject only to such modifications as may be agreed upon between us at the postponed conference, and subject to inclusion of Crystal City if and when required by a final court decision which is not subject to further review.

This should clear up all points covered by the discussions and our exchange of letters on yesterday and today.

Sincerely yours, (S.) R. L. Clause, Vice President, Pittsburgh Plate Glass Company.

[fol. 444] BOARD'S EXHIBIT No. 5-E

Cleveland, Ohio, January 19, 1939.

Mr. R. L. Clause, Executive Vice President, Pittsburgh Plate Glass Company, Statler Hotel, Cleveland, Ohio.

DEAR MR. CLAUSE:

Received your letter in answer to mine of January 19th, but the first paragraph of my letter was not definitely answered. May I again quote from my letter "We understand from your letter of January 18th that you refuse to meet with us in conference to discuss modification of agreement if Crystal City and the question of a representative of Crystal City is included."

We urge a definite answer on this question in order to determine our future course.

We will deeply appreciate immediate reply.

Sincerely yours, —— ——, President, Federation of Flat Glass Workers of America, Olmsted Hotel, Cleveland, Ohio.

[fol. 445] BOARD'S EXHIBIT No. 5-F

Hotel Statler, Cleveland

(Remainder of letterhead omitted)

Cleveland, Ohio, January 19, 1939.

Mr. Paul W. Fuller, President, Federation of Flat Glass Workers of America, Hotel Olmsted, Cleveland, Ohio.

DEAR MR. FULLER:

I have received your second letter of January 19th. We do refuse to meet with you in conference to discuss modification of agreement if, but only if, Crystal City and the question of a representative of Crystal City is included.

This has been our position all the time, and this letter, together with our previous exchange of letters, should make all points clear.

Sincerely yours, (S.) R. L. Clause, Vice President, Pittsburgh Plate Glass Company.

[fol. 446] **Board's Exhibit 3-b**

PETITIONER'S EXHIBIT 1

Agreement Governing Wages and Working Rules of the Federation of Flat Glass Workers of America For Members Employed by Pittsburgh Plate Glass Co.

[fol. 447] November 13, 1934.

Federation of Flat Glass Workers of America, Suite 406, 11 East Gay Street, Columbus, Ohio.

Gentlemen:

The Pittsburgh Plate Glass Company (hereinafter called the "Company") hereby covenants and agrees, with the

intention of being legally bound, to apply and abide by the following rules and regulations in its relationships with its employees who are members of the Federation of Flat Glass Workers of America (hereinafter called the "Federation").

(1) The Company recognizes and accepts the principles of collective bargaining as provided for in Section 7 (a) of the National Industrial Recovery Act, and is at all times willing to meet any of its employees or representatives of any of the employees for the purpose of discussing wages, hours, and working conditions, always with the object of reaching a satisfactory understanding.

(2) We hereby formally recognize the Federation of Flat Glass Workers of America and the right of our employees to be members thereof. We will discuss at any time matters of mutual interest to the Company and those of our employees who are members of the Federation with such of the Federation's officers or committees as these employees may designate from time to time as their representative or representatives, always with the object of reaching a satisfactory understanding.

(3) There shall be no discrimination by foremen, superintendents or any other person in the employ of the Company against any employees because of membership in the Federation or non-membership in a labor organization.

(4) The Federation, for the purpose of effectively representing such of the Company's employees as are included in its membership, will appoint for each plant of the Company, and the Company will recognize and deal with, (1) one or more members of the Local Union of the Federation in each department of each plant, to act as Grievance Men or Sub-Grievance Men in the department for which appointed and (2) an Industrial Relations Committee consisting in each instance of the President and Vice-President of the Local Union of the Federation and four members of the Union selected by its membership. The Company, when provided with a list of the names of such Grievance Men and Sub-Grievance Men and with a list of the officers of the Local Unions and members of the Industrial Relations Committees, will cooperate with these men in order that they may properly perform their duties.

(5) (a) Any grievance or misunderstanding involving wages, hours or working conditions which any employee

represented by the Federation may desire to discuss and adjust with the Company shall be handled as follows:

[fol. 448] 1st. The employee shall deal directly with his own foreman in his department in reporting complaints or grievances except where the employee may feel that he cannot properly express or explain his difficulties, in which case he shall have the privilege of calling the Grievance Man for his department to explain his difficulties to his foreman.

2nd. If the grievance does not receive proper attention or is not properly adjusted by the foreman, the employee shall report to the Grievance Man selected to represent that department and the Grievance Man shall then take the *the* grievance up directly with the official of the Company directly in charge of that department.

3rd. Should the Grievance Man fail to secure satisfactory settlement, he shall report the matter in dispute directly to the President or Vice President of the Local Union, depending upon which one has been designated by said Union to handle complaints in that particular plant.

4th. The President or Vice President of the Local Union, depending upon which has been selected to handle grievances or disputes, shall, upon receiving the complaint and after investigating the same, either take up the grievance or dispute directly with the plant superintendent or refer it to the Industrial Relations Committee for its consideration and disposition with the plant management, as he deems best.

(b) Representatives of the Company will meet with the Industrial Relations Committee of each plant at least once a month for the purpose of reaching a fair and impartial adjustment of all grievances and complaints of employees represented by such Committee, and the Company will not discriminate against any employee or committeeman in handling or attempting to adjust complaints. Representatives of the Company will meet with any of the Industrial Relations Committees operating in its plants at any time upon call of any Committee, for the purpose of adjusting emergency grievances or complaints. The purpose of all these meetings, monthly and special, shall be to discuss and adjust, if possible, all general disputes or complaints and such individual complaints as may be referred to the Indus-

trial Relations Committee by department Grievance Men because of their inability to adjust the grievance through direct dealing with the foreman or superintendent of the department. Minutes will be kept of all meetings, regular or special, between the Plant Management and the Industrial Relations Committee. Any rules or regulations agreed on and not in conflict with the terms of this agreement shall be put in writing and shall be signed by the Committee and plant management, to be used as a guide for future reference in settling disputes or grievances.

(c) The plant management will in all cases investigate complaints or suggestions and endeavor to make satisfactory adjustments promptly, but if the adjustments are not regarded as satisfactory, the employees or his representative may refer the question in dispute to the General Presi-
[fol. 449] dent of the Federation who shall take up the matter with the general management of the Company.

(d) For the purpose of facilitating investigation and adjustment of grievances by the President or Vice President of the Local Union, such representative shall have access to the factory during working hours for the purpose of contacting foremen or employees or members of the Industrial Relations Committee on matters of business affecting Company employees, provided that his visits in the plant are arranged with the Superintendent and conducted so as to avoid interference with the operation of any department. The Company may designate a representative to accompany the representative of the employee on such visits. The General President and Secretary-Treasurer of the Federation shall also have access to the plant of the Company on matters of business affecting Company employees, but arrangements for such visits shall be made with the Company for each specific visit and the Company may designate a representative to accompany these officers on their visits.

(e) In discussing complaints or grievances with the management, the President or Representatives of the employees or the Industrial Relations Committee shall be given the right to call in any employee from the department affected, if by so doing, it may be possible to better explain conditions affecting the operations under discussion.

(f) Officers or representatives of the Local Union who are employees of the Company will be afforded time off from their work to assist in the work of the Industrial Relations Committee or executive affairs of the Federation as may be required, provided that arrangements for such time off shall first be made with the plant management to avoid interference with the plant operation. All conferences between these representatives and the plant management which must be held at the plant during regular working hours, shall be without loss of time to any such employee.

(6) The Company takes the position that nothing in its relationship with any of its employees shall conflict with the open shop principle. All employees or their representatives shall have exactly the same privilege in presenting their complaints or grievances as may be conferred upon employees who are members of the Federation.

(7) The Company pledges itself, its officials and representatives to the following rules and principles in its employee relationships and in the settlement of disputes:

(a) Discrimination. The Company will not discriminate for or against employees who are members of the Federation in necessary lay-offs and in hiring for additional operations. No discrimination will be shown, in the event of lay-offs or in rehiring, against employees who are members of the Federation, because of their Federation activities, assuming always that these activities do not involve vio- [fol. 450] lence or destruction of Company property.

(b) Discharge or lay-off of employees and factors involved in reducing or reemploying forces. The Company retains the right to select and discharge its employees, but any discharged employee or his representative will, upon request, be advised of the reason for his discharge or lay-off. When it is necessary to reduce the working force, consideration shall be given to the following factors: Ability—individual employee's skill; Seniority—the length of employee's service with the Company; Family Status—whether married or single, number of dependents, etc.; Residence—whether or not employee lives in the community in which the plant is located. When the factors—Ability, Family Status and Residence are of equal weight as between employees, Seniority shall govern, and in no event shall

membership or non-membership in the Federation be a factor. Reemployment will be governed by exactly the same considerations which affect lay-offs or reduction of force. Persons who are essential to the efficient operation of a plant because of their special training or ability will be employed, retained or rehired when conditions demand, regardless of the other factors involved.

Officers or representatives of the Federation will not be discharged unless just cause be shown. However, they will be subject to lay-offs when operations are curtailed in their departments and will receive the same consideration accorded any employee in the distribution of available work.

(c) Notice of Lay-offs. Whenever a reduction of force or in hours is necessary, the Company will notify any employee affected the day prior to such reduction, unless cancellation of orders, break-down, accidents or other emergencies make such notice impossible.

The Company will not call a man out for work when no work is available excepting the possibility of a situation beyond its control, such as cancellation of orders, or breakdowns or other situation for which it could not fairly be blamed. The Company assumes no responsibility for individuals voluntarily appearing in the hope that work may be available. The Management and the Industrial Relations Board will hear and settle any questions in dispute on this subject.

(d) Wages. No reduction in wage schedules is contemplated. The Company will at any time discuss with any of its employees or their representatives the question of wages, including any discrepancies or inequalities in the rates of pay, and will make such adjustments immediately as appear to it to be fair and equitable.

(e) Incentive System. The Company will cooperate with its employees and their representatives in bringing about a better understanding of the working of bonus or incentive system, and will consider suggestions concerning changes that might be effected in such systems. Bonus rates will be posted at all times and earnings will be posted as promptly as possible after the work is performed, and [fol. 451] changes in bonus rates will be discussed by Company representatives with members of the Industrial Rela-

tions Committee operating in the plant affected, or any other employee working in that plant or his representative.

(f) Distribution of Work. The Company reserves the right to determine the number of employees retained on its payroll at any time, but it will be largely guided in the equalization and distribution of available work by the wishes of its employees or their representatives and will at all times welcome discussion with any employee or his representative as to the plan to be followed.

(g) Safety Devices. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury will be provided by the Company. Suggestions as to protection against injury will be welcomed by the Company from its employees or their representatives, and if their recommendations are determined to be sound, steps will be taken to put them into effect. The Foreman in each department will arrange for such equipment for employees as has been determined to be necessary or advisable.

(h) Sunday and Overtime Work. The Company is not in sympathy with Sunday and overtime work and it will be avoided so far as is practicable except for necessary repairs or for continuous operations or meeting abnormal commercial requirements.

(8) The Company does not recognize the right of its employees to dictate or impose or declare that any certain number of employees shall be maintained in connection with any of its various operations, but it will cooperate in studying any suggestions which are offered by its employees or their representatives. The principle of encouraging and promoting individual initiative is recognized as essential to the success of the Company's operations.

(9) Should the Federation during the life of this agreement secure an agreement embracing the industry generally, including this Company, in either or both the flat glass (plate and laminated) or the window glass industry, then this agreement may be revised or made a part of the general agreement secured in either or both branches of the industry. If a general industry agreement is in only one branch of the industry, this agreement shall remain in effect in the

other branch of the industry not affected by the general agreement in question.

(10) This agreement is also subject to the possibility that revision may be necessitated by the adoption of a Code under the National Industrial Recovery Act for the Flat Glass Industry or the Window Glass Industry or both. The Company at the present time is operating under the provisions of the President's Reemployment Agreement with the exceptions allowed at the time of its signing. Copies of the President's Reemployment Agreement with these exceptions have been and will continue to be posted on the bulletin boards. When a code for the Flat Glass Industry [fols. 452-453] or the Window Glass Industry or both is approved by the President of the United States, copies of the provisions affecting hours of work and wages, will be posted immediately.

(11) Subject to the foregoing contingencies, this agreement shall be in effect as long as satisfactory to the Company and its employees.

Yours very truly, Pittsburgh Plate Glass Company,
By (Signed) R. L. Clause, Vice President.

The Foregoing Agreement Is Accepted:
Federation of Flat Glass Workers of America, By (Signed) Glen W. McCabe, General President. (Signed) Lilburn P. Jay, Ferd A. Bindel, Armand J. Hansotte, Jules Votquenne, Angelo Sacco, S. C. Urick, Sam Yount, Albert Johnson, Daniel Fry, Merle Stivason, C. Brummage (Per L. P. Jay), N. B. Campbell (Per L. P. Jay), G. S. Hawdon, Wage Committee. Robert McVay, L. E. Moll.

[fol. 454] PETITIONER'S EX. 2

Agreement Governing Wages and Working Rules of the Federation of Flat Glass Workers of America for Members Employed by Pittsburgh Plate Glass Co.

[fol. 455] The Pittsburgh Plate Glass Company (hereinafter called the "Company", hereby covenants and agrees, with the intention of being legally bound, to apply and abide by the following rules and regulations in its relationships with its employees who are members of the Federation of

Flat Glass Workers of America (hereinafter called the "Federation").

(1) The Company recognizes and accepts the principles of collective bargaining as provided for in Section 7 (A) of the National Industrial Recovery Act, and is at all times willing to meet any of its employees or representatives of any of the employees for the purpose of discussing wages, hours, and working conditions, always with the object of reaching a satisfactory understanding.

(2) We hereby formally recognize the Federation of Flat Glass Workers of America and the right of our employees to be members thereof. We will discuss at any time matters of mutual interest to the Company and those of our employees who are members of the Federation with such of the Federation's officers or committees as these employees may designate from time to time as their representative or representatives, always with the object of reaching a satisfactory understanding.

Wages

(1) It is agreed that a general five per cent (5%) increase on all rates now in effect shall become effective in all plate and safety glass plants as of February 1st, 1935.

(2) It is further agreed that in addition to the five per cent (5%) increase in general wage rates, the Company will, from time to time, discuss with any of its employees or their representatives, question of wages, including any discrepancies or inequalities in the rates of pay, and will make such adjustments as appear to it to be fair and equitable, such adjustments as are made shall be paid retroactive to the beginning of pay period in which the request for adjustment was submitted.

(3) Incentive System. The Company will co-operate with its employees and their representatives in bringing about a better understanding of the working of bonus or incentive system and will consider suggestions concerning changes that might be effective in such system. Bonus rates and value will be posted at all times and earnings will be posted as promptly as possible after the work is performed and changes in bonus rates will be discussed by Company representatives with members of the Industrial Relations Committee operating in the plant affected.

(4) The Company agrees to re-establish the former practice of guaranteeing "Base Rates" under the Incentive System.

Working Rules and Regulations

(1) There shall be no discrimination by foremen, superintendents or any other person in the employ of the Company against any employees because of membership in the Federation.

[fol. 456] (2) The Federation, for the purpose of effectively representing such of the Company's employees as are included in its membership, will appoint for each plant of the Company, and the Company will recognize and deal with, (1) one or more members of the Local Union of the Federation in each department of each plant, to act as Grievance Men or Sub-Grievance Men in the department for which appointed and (2) an Industrial Relations Committee consisting in each instance of the President and Vice President of the Local Union of the Federation and four members of the Union selected by its membership. The Company, when provided with a list of the names of such Grievance Men and Sub-Grievance Men and with a list of the officers of the Local Unions and members of the Industrial Relations Committees, will cooperate with these men in order that they may properly perform their duties.

(3) (a) Any grievance or misunderstanding involving wages, hours or working conditions which any employee represented by the Federation may desire to discuss and adjust with the Company shall be handled as follows:

1. The employee shall deal directly with his own foreman in his department in reporting complaints or grievances except where the employee may feel that he cannot properly express or explain his difficulties, in which case he shall have the privilege of calling the Grievance Man for his department to explain his difficulties to his foreman. If the grievance does not receive proper attention or is not properly adjusted by the foreman, the employee shall report to the Grievance Man selected to represent that department and the Grievance Man shall then take the grievance up directly with the official of the Company directly in charge of that department.

2. Should the Grievance Man fail to secure satisfactory settlement, he shall report the matter in dispute directly

to the President or Vice President of the Local Union, depending upon which one has been designated by said Union to handle complaints in that particular plant.

3. The President or Vice President of the Local Union, depending upon which has been selected to handle grievances, or disputes, shall, upon receiving the complaint and after investigating the same, either take up the grievance or dispute directly with the plant superintendent or refer it to the Industrial Relations Committee for its consideration and disposition with the plant management, as he deems best.

(b) Representatives of the Company will meet with the Industrial Relations Committee of each plant at least once a month for the purpose of reaching a fair and impartial adjustment of all grievances and complaints of employees represented by such Committee, and the Company will not discriminate against any employee or committeeman in handling or attempting to adjust complaints. Representatives of the Company will meet with any of the Industrial Relations Committees operating in its plants at any time upon call of any Committee, for the purpose of adjusting [fol. 457] emergency grievances or complaints. The purpose of all these meetings, monthly and special, shall be to discuss and adjust, if possible, all general disputes or complaints and such individual complaints as may be referred to the Industrial Relations Committee by department Grievance Men because of their inability to adjust the grievance through direct dealing with the foreman or superintendent of the department. Minutes will be kept of all meetings, regular or special, between the Plant Management and the Industrial Relations Committee. Any rules or regulations agreed upon and not in conflict with the terms of this agreement shall be put in writing and shall be signed by the Committee and plant management, to be used as a guide for future reference in settling disputes or grievances.

(c) The plant management will in all cases investigate complaints or suggestions and endeavor to make satisfactory adjustments promptly, but if the adjustments are not regarded as satisfactory, the employee or his representative may refer the question in dispute to the General President of the Federation or his representative in the district who shall take up the matter with the general management of the Company.

(d) For the purpose of facilitating investigation and adjustment of grievances by the President or Vice President of the Local Union, such representative shall have access to the factory during working hours for the purpose of contacting foremen or employees or members of the Industrial Relations Committee, on matters of business affecting Company employees, provided that his visits in the plant are arranged with the Superintendent and conducted so as to avoid interference with the operation of any department. The Company may designate a representative to accompany the representative of the employee on such visits. The General President of the Federation and/or his representative shall also have access to the plant of the Company on matters of business affecting Company employees, but arrangements for such visits shall be made with the Company for each specific visit and the Company may designate a representative to accompany these officers on their visits.

(e) In discussing complaints or grievances with the management, the President or representatives of the employee or the Industrial Relations Committee shall be given the right to call in any employee from the Department affected, if by so doing, it may be possible to better explain conditions affecting the operations under discussion.

(f) Officers or representatives of the Local Union who are employees of the Company will be afforded time off from their work to assist in the work of the Industrial Relations Committee or executive affairs of the Federation as may be required, provided that arrangements for such time off shall first be made with the plant management to avoid interference with the plant operation. All conferences between these representatives and the plant management which must be held at the plant during regular working [fol. 458] hours, shall be without loss of time to any such employee.

4. The Company pledges itself, its officials and representatives to the following rules and principles in its employee relationships and in the settlement of disputes.

5. Discriminations. The Company will not discriminate against employees who are members of the Federation in necessary lay-off and in hiring for additional operations. No discrimination will be shown, in the event of lay-off or in rehiring, against employees who are members of the

Federation because of their Federation activities, assuming always that these activities do not involve violence or destruction of Company property.

6. Seniority. Discharge or lay-off of employees and factors involved in reducing or re-employing forces. The Company retains the right to select and discharge its employees but any discharged employee or his representative will, upon request, be advised of the reason for his discharge or lay-off.

Seniority, Ability, Fitness and Family status shall entitle employees to first consideration for promotion as opportunity shall offer, where ability, fitness and family status are equal, seniority shall govern. The same rule to govern who shall be retained on the job in the event of reduction of forces. Re-employment will be governed by exactly the same considerations which affect lay-off or reduction of force. In any case of promotion, discharge, lay-off or re-employment where disagreement exists, the case may be opened for reconsideration.

Specially trained persons who are essential to the efficient operation of a plant will be employed, retained or rehired when conditions demand, regardless of other factors involved.

Officers or representatives of the Federation will not be discharged unless just cause be shown. However, they will be subject to lay-offs when operations are curtailed in their departments and will receive the same consideration accorded any employee in the distribution of available work.

7. Notice of Lay-Offs. Whenever a reduction of force or in hours is necessary, the Company will notify any employee affected, the day prior to such reduction, unless cancellation of orders, breakdown, accidents or other emergencies makes such notice impossible.

The Company will not call a man out for work when no work is available excepting the possibility of a situation beyond its control, such as cancellation of orders, or breakdowns, or other situation for which it could not fairly be blamed.

The Company assumes no responsibility for individuals voluntarily appearing in the hope that work may be available, but when an employee is ordered to report for work the following day and does report, and there is no work

available, he shall receive at least the equivalent of two hours' pay. The Management and the Industrial Relations Committee will hear and settle any questions in dispute on this subject.

Employees taken from their regular work to temporarily work on a job of a lower rate, shall receive the rate of their [fol. 459] regular work. When assigned to a job of a higher rate of pay, the higher rate shall apply. Employees taking work when their regular job is not available shall receive the rate for the work to which they are assigned.

8. Distribution of Work. The Company reserves the right to determine the number of employees retained on its payroll at any time, but it will be largely guided in the equalization and distribution of available work by the wishes of its employees or their representatives and will at all times welcome discussion with any employee or his representatives as to the plan to be followed.

9. Safety Devices. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury will be provided by the Company. Suggestions as to protection against injury will be welcomed by the Company from its employees or their representatives, and if their recommendations are determined to be sound, steps will be taken to put them into effect. The Foreman in each department will arrange for such equipment for employees as has been determined to be necessary or advisable.

10. Sunday and Overtime Work. Except for repairs essential to factory operation and except in the continuous processes of the industry, work on Sunday, Christmas Day, Fourth of July, Labor Day, Decoration Day, and Thanksgiving Day, will be avoided, so far as is possible. If some emergency arises where work on a Sunday or a holiday is required to fill emergency orders for glass, or to avoid the hiring of temporary employees during any rush season, it is agreed that Sunday and holiday work may be carried on, if consistent with the Codes, to the principles of which the Company subscribes.

11. The Company does not recognize the right of its employees to dictate or impose or declare that any certain number of employees shall be maintained in connection with

any of its various operations, but consideration shall be given to the possibility that increased production, speeds or operation, may possibly impose undue hardship on employees and in such cases, after proper and fair investigation determined and approved additional help shall be added.

Where employees work on shifts, there shall be a rotation of such shifts.

12-B. Employees in supervisory positions shall not work hours in excess of those provided in the code at work ordinarily performed by regular employees whose hours are governed by code regulations.

12-C. Reasonable rest or relief periods shall be provided for all employees working in occupations or positions where they cannot leave their station unless relieved by someone else.

No employee shall be permitted to work in excess of the hours prescribed in each plant.

13. This agreement is also subject to the possibility that revision may be necessitated by changes in the Flat Glass [fols. 460-461] Code under which the Company is now operating.

This agreement may be modified or discontinued by mutual consent of the Company and the Federation but otherwise shall continue in full force and effect until November 1st, 1935, and thereafter unless notice of cancellation or desire for modification is given in writing fifteen days prior to the termination date by either party.

Signed and accepted this date February 5, 1935, by Pittsburgh Plate Glass Company (Signed) R. L. Clause, Vice President.

Attest: by

(Signed) Fred Keightly, Director of Labor Relations.

Federation of Flat Glass Workers of America, (Signed) Glen W. McCabe, President. (Signed) Armand J. Hansotte, Fred A. Bindel, Geo. S. Hawdon, Jules Votquenne, Angelo R. Sacco, Albert Johnson, Steve C. Urick, Daniel H. Fry, Merle Stivason.

[fol. 462] PETITIONER'S EX. 3

Agreement Governing Wages and Working Rules of the Federation of Flat Glass Workers of America for Members Employed by Pittsburgh Plate Glass Co.

[fol. 463] (1) The Pittsburgh Plate Glass Company, (hereinafter called the "Company") convenants and agrees, with the intention of being legally bound, to apply and abide by the following rules and regulations in its relationship with its employes who are members of the Federation of Flat Glass Workers of America, (hereinafter called the "Federation").

(2) The Federation of Flat Glass Workers of America is herewith recognized as the collective bargaining agency for those employes who are members thereof. The Company recognizes the right of their employes to be members of the Federation and there shall be no discrimination by foremen, superintendents or any other person in the employ of the Company against any employe because of membership in the Federation. Members of the Federation shall be free from interference, restraint or coercion on the part of the Company or agents thereof. No official of the Company or agent will in any way interfere with the right of employes to become members of the Federation.

(3) The Company will discuss matters of mutual interest to the Company and those of the employes who are members of the Federation with such of the Federation's officers or committees as these employes may designate from time to time as their representative or representatives, always with the object of reaching a satisfactory understanding.

(4) The Company shall comply with the hours of labor [fol. 464] and rates of pay and other conditions of employment prescribed by this agreement. The Company shall not reclassify employes or duties or occupations performed or engage in any subterfuge for the purpose of defeating or evading the provisions of this agreement. The Company shall make reasonable provisions for the safety and health of its employes at the plant and during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employes from injury will be provided by the Company without cost to employes. Proper heating and ventilating systems will be installed where needed.

(5) Suggestions as to protection against injury will be welcomed by the Company from its employes or their representatives and if their recommendations are determined to be sound, steps will be taken to put them into effect. The Foreman in each department will arrange for such equipment for employes as has been determined to be necessary or advisable.

(6) Wage rates shall be as per attached schedule and shall remain undisturbed for the life of this agreement except when a change in method of operation shall require a change in rate and, in that event, the matter will be discussed with the Industrial Relations Committee and other representatives in the plant or department affected and a mutually satisfactory adjustment reached.

Should there come about during the life of this agreement a radical change in currency values such as would make [fol. 465] necessary a material readjustment in the National currency, the wage schedule may be taken up for discussion as an emergency matter.

Wages shall be paid semi-monthly and shall be exempt from any deduction other than as required by Law. When pay day falls on Saturday, Sunday or holidays, the employes will be paid the day previous.

(7) Female employes performing substantially the same work as male employes shall receive the same rate of pay as male employes.

(a) Incentive System. The Company will cooperate with its employes and their representatives in bringing about a better understanding of the working of bonus or incentive system and will consider suggestions concerning changes that might be effective in such system. Bonus rates and values will be posted at all times and earnings will be posted as promptly as possible after the work is performed and changes in bonus rates will be discussed by Company representatives with members of the Industrial Relations Committee operating in the plant affected, when there is any complaint as to their correctness or equity.

(b) The Company agrees to guarantee "Base Rates" under the Incentive Systems.

(8) No employe shall be discriminated against by reason of making a complaint or filing a grievance against any violation of this agreement.

(9) The Federation, for the purpose of effectively rep-
[fol. 466] resenting such of the Company's employes as are included in its membership, will appoint for each plant of the Company, and the Company will recognize and deal with (1) one or more members of the Local Union of the Federation in each department of each plant, to act as grievance men or sub-grievance men in the department for which appointed, and (2) an Industrial Relations Committee consisting in each instance of the President and Vice-President of the Local Union of the Federation and four members of the Union selected by its membership. The Company, when provided with a list of names of such grievance men or sub-grievance men and with a list of the officers of the Local Union, and members of the Industrial Relations Committee, will cooperate with these men in order that they may properly perform their duties.

(10) Any grievance or misunderstanding involving wages, hours or working conditions which any employe represented by the Federation may desire to discuss and adjust with the Company shall be handled as follows:

(11) The employe may deal directly with his own foreman or request the grievance man to accompany him or ask the grievance man to represent him in reporting complaints or grievances. If the grievance does not receive proper attention, or is not properly adjusted by the Foreman, the employes shall report to the grievance man selected to represent that department and the grievance man shall then take the grievance up directly with the official of the Company directly in charge of that department.

[fol. 467] (12) When a representative of the Company contacts an employe or group of employes, for the purpose of investigating and adjusting a complaint, or grievance, the grievance man of that department must be present.

(13) Should the grievance man fail to secure satisfactory settlement, he shall report the matter in dispute directly to the President or Vice-President of the Local Union, depending upon which one has been designated by said Union to handle complaints in that particular plant.

(14) The President or Vice-President of the Local Union shall upon receiving the complaint and after investigating the same, either take up the grievance or dispute directly

with the Plant Superintendent or refer it to the Industrial Relations Committee for its consideration and disposition with the Plant Management.

(15) Representatives of the Company will meet with the Industrial Relations Committee of each plant once a month for the purpose of reaching a fair and impartial adjustment of all grievances and complaints of employes represented by such Committee, and the Company will not discriminate against any employe or committeeman in handling or attempting to adjust complaints. Representatives of the Company will meet with any of the Industrial Relations Committees operating in the plants for the purpose of adjusting emergency grievances or complaints. The purpose of these meetings shall be to discuss and adjust, if possible, all gen- [fol. 468] eral disputes or complaints and such individual complaints as may be referred to the Industrial Relations Committee by the department grievance man because of their inability to adjust the grievance through direct dealing with the foreman or superintendent of the department. Minutes will be kept of all meetings between the Plant Management and the Industrial Relations Committee. Any rules or regulations agreed upon and not in conflict with the terms of this agreement shall be put in writing and shall be signed by the Committee and Plant Management to be used as a guide for future reference in settling disputes or grievances.

(16) The Plant Management will in all cases investigate complaints or suggestions and endeavor to make satisfactory adjustments promptly. Every effort will be made to expedite adjustments. In the event of failure to adjust any complaints or grievances, it shall be referred to the General President of the Federation, who shall take the matter up with the General Management of the Company.

(17) The General President of the Federation and/or his representative and the President or Vice-President of the Local Union shall have access to the plants during working hours in order to contact foremen, employes or members of the Industrial Relations Committee on matters pertaining to this agreement. Such visits to the plant must be prearranged with the Superintendent and conducted so as to avoid interference with the operation of any depart-

[fol. 469] ment. The Company may designate someone to accompany these representatives on these visits.

It is understood that visits to the plant by these representatives of the Federation should better the relationship between its members and the Management, and the Management agrees to provide through Plant officials, passes in such a manner that no representative of the Federation will be inconvenienced when he wishes to make such a visit.

It is understood that visits to the plant do not have to be confined to any certain part of the plant and may be extended to other departments.

(18) In discussing complaints or grievances with the Management, the President or representative of the employe or the Industrial Relations Committee shall be given the right to call in any employe from the Department affected, if by so doing, it may be possible to better explain condition- affecting the operations under discussion.

(19) Officers or Representatives of the Local Union who are employes of the Company will be afforded time off from their work to assist in the work of the Industrial Relations Committee or Executive affairs of the Federation, as may be required, provided that arrangements for such time off shall first be made with the plant management to avoid interference with the plant operation. All conferences between these representatives and the Plant Management which must be held at the plant during regular working hours shall be without loss of time to any employe.

[fol. 470] (20) Discriminations. The Company will not discriminate against employes who are members of the Federation in necessary lay-off and in hiring for additional operations. No discrimination will be shown in the event of lay-offs or in rehiring, against employes who are members of the Federation because of their Federation activities, assuming always that these activities do not involve violence or destruction of Company property.

(21) (a) The Company retains the right to select and discharge its employes but any discharged employe or his representative will upon request be advised in writing of the reason for his discharge or lay-off.

(b) No employe shall be discharged or suspended without just cause. If any employe shall be discharged or suspended

and if an investigation proves that an injustice has been done, then the Management shall reinstate said employe and pay full compensation at employe's regular rate for the time lost.

Any complaint under this Paragraph must be filed with the Management within forty-eight (48) hours or it will be considered as closed.

(22) (a) Seniority and Competency shall entitle employes to first consideration for promotion as opportunity shall offer; where competency is equal, seniority shall govern. The same rule to govern in plant or department who shall be retained on the job in the reduction of forces, except that Family Status shall also be considered. Reemploy- [fol. 471] ment will be governed by exactly the same consideration which affects lay-offs or reduction of forces. In any case of promotion, discharge, lay-off or reemployment, where disagreement exists, the case may be considered as a formal complaint in the manner provided here.

(b) Where an operation requires specially trained persons they will be employed, retained or rehired when conditions demand regardless of other factors involved.

(23) Seniority is considered the length of service from the first date of continuous employment in years, months and days of any employe. Time lost through sickness or temporary lay-off shall not be deducted from employes' seniority record.

(24) Promotion Schedule. A satisfactory promotion schedule shall be set up in each department by the Management of the plant, showing the steps of promotion employes will follow providing they are qualified in accord with the foregoing paragraphs.

(25) Any employe wishing to transfer from one department to another shall make application in writing to the Employment office. The Management shall give consideration to the applicants in accordance with the paragraph governing Seniority. After transfer is made, and employe transferred is not satisfied, he cannot return to his former department except at bottom line of promotion.

(26) Employment office shall keep records of employes available for work in all departments, due to service with

[fol. 472] the Company or to outside experience. A card shall be kept of each employe setting forth his qualifications.

(27) When a vacancy occurs it shall be the duty of the person responsible for filling the vacancy to secure from the Employment Office a list of available applicants or candidates. The oldest employe in point of service shall have first consideration, but in the event this employe cannot qualify, he shall be notified as to the reason for his not being placed or being retained on the job.

(28) In the event of promotion, a man's seniority shall accumulate on the job from which he has been promoted. In the event a man does not qualify for the promotion, he may move back to his former occupation.

(29) Temporary employes shall not accumulate seniority. Temporary lay-offs caused by a repair shall not affect seniority standing. During indefinite lay-off, seniority shall not accumulate. However, employe does not lose seniority already earned.

(30) Any employe being laid off due to shut-downs or reduction of forces shall leave his address with the Employment Agent on a card provided for that purpose. In the event of rehiring, employment agent shall notify the man in his turn. Upon the employe's failure to report his intentions in the matter within a ten-day period, he shall lose his right of seniority. The Company shall keep a record of these transactions. Service records and employ-[fol. 473] ment lists shall be open to inspection by the Local President.

Men who quit or are discharged shall be considered as new employes if again employed by the Company.

(31) Distribution of Work. The Company reserves the right to determine the number of employes retained on its payroll at any time, but it will be largely guided in the equalization and distribution of available work by the wishes of the regular employes or their representatives as to the plan to be followed in any department.

(32) The Company will not call an employe to work when no work is available, excepting the possibility of a situation beyond its control, such as cancellation of orders

or break-down or other situations for which it could not be fairly blamed. The Company assumes no responsibility for individuals voluntarily appearing in the hope that work may be available, but when an employe is ordered to report for work the following day and does report and there is no work available, the employe shall receive two hours' pay at employe's regular rate.

(33) Employes taken from their regular work to temporarily perform other duties paying a lower rate of pay shall receive their regular rate. Employes assigned to work paying a higher rate of pay shall receive the higher rate. Employes taking work when their regular work is not available shall receive the rate for the work to which they are assigned.

(34) The Company does not recognize the right of its [fol. 474] employes to dictate or declare that any certain number of employes shall be maintained in connection with any of its various operations. Consideration shall be given to the possibility that increased production, speeds of operation, may possibly impose undue hardships on employes. When such changes are to be made the Industrial Relations Committee will be notified. In case it is felt that a hardship is being imposed by such change and after proper and fair investigation with the Committee it is found that additional help is needed, same shall be added. Additional help may be added, if deemed necessary, while an investigation is being made.

(35) (a) Reasonable relief periods shall be provided for all employes working in occupations or positions where they cannot leave their stations unless relieved by someone else.

(b) A fifteen (15) minute rest period will be provided for female employes where uninterrupted work exceeds five hours.

(c) Wherever possible and consistent with the type of work involved, lunch periods of uniform character and duration will be provided in each department. Employes shall not be required to remain on duty in their department or to perform work during the lunch period unless they are paid for the full period at their regular rate.

(36) Except in the continuous processes of the industry, work on Sundays, Christmas Day, Decoration Day, Fourth of July, Labor Day and Thanksgiving Day will be avoided as far as possible.

[fol. 475] The management will cooperate with its employes to call out as few men as possible for Sunday work. Any employe especially wishing to be absent on a particular Sunday will be given all possible consideration.

(37) Normal work week shall be thirty-six (36) hours. No employe except as herein otherwise provided, may work more than forty-two (42) hours nor more than six (6) days in any seven (7) days period, nor more than eight (8) hours in any twenty-four (24) hour period without the payment of overtime. It is understood that the Wareroom and Grinding and Polishing Departments will not be operated on Sundays.

Overtime shall be compensated at one and one-half (1½) times the normal rate of pay.

Exception 1. In continuous processes, normal week is forty-two (42) hours consisting of six-hour shifts. Employes may work one additional shift without the payment of overtime due to rotation of shifts.

Exception 2. To provide for emergency relief where employes work on shifts that operate twenty-four (24) hours and an employe fails to report for work on his regular shift or is unable to remain at work, then either an employe on the preceding or following shift may be required to work hours in excess of six (6) hours in twenty-four (24) or forty-two (42) hours in a week provided that time-and-one-half is paid for all hours in excess of eight (8) hours in twenty-four (24).

[fol. 476] Exceptions for Continuous Departments at Works No. 4 and No. 6

Owing to the unusual requirements of furnace operation, the normal work day may be increased to eight (8) providing the maximum hours per week do not exceed forty-two (42).

This provision covers the continuous departments at Works No. 6.

This provision covers melters and finishers at Works No. 4.

Exception 3. Employes engaged in maintenance or repairs shall not be limited as to hours per day or days per week, but shall be compensated at one and one-half (1½) times normal rate of pay for time in excess of eight (8) hours in any twenty-four hour period or forty-two (42) hours in any seven-day period.

Exception 4. For Occupations not covered by the above, present practice shall continue.

Note: During peak periods in automotive industry, in plate and safety glass plants affected, for a period of seven consecutive weeks in each twenty-six (26) weeks, a maximum of forty-eight (48) hours may be worked without the payment of overtime.

When the provisions of the above clause are to be put into effect, the need for same will be explained.

(38) Where employes work on shifts there shall be rotation thereof.

(39) The term "continuous" processes of the industry as used herein is defined to mean and include the operations of mixing and melting the raw materials, withdrawing the [fol. 477] molten glass from the tank, and/or furnaces, forming the same into sheets or plates and annealing same and delivering such sheets or plates to those places or sections of the plant where they will subsequently be handled and worked or stored, and also the heat, light, power and water producing operations necessarily incident to such continuous operations.

(40) If some emergency arises whereby it becomes necessary to extend certain operations beyond the time provided for in this agreement, in order to fill emergency orders for glass and to avoid hiring temporary employes for that purpose, evidence will be submitted showing the need for this to the Industrial Relations Committee and representatives in the department of the plant affected.

(41) When leave of absence is granted, employe shall not lose seniority rights; such leaves of absence shall be recorded in the Employment records.

(42) Due to Laws imposing compensation insurance upon industry, and because of the Company's policy which

provides group life and health and accident insurance, all new employes must pass a physical examination.

The physical examination of employes following lay-off and sickness will not be used as a guise to discriminate against any employe.

Physical examination of employes or groups of employes will be made from time to time and should such examination [fol. 478] disclose that a transfer to another department would be beneficial from a health standpoint, the employe will be consulted and the transfer made. A transfer for this reason will not be considered a violation of the promotion schedule.

If any employe feels he or she has been discriminated against as a result of an examination, the case will be reviewed by the Company and the Industrial Relations Committee.

(43) Employes in supervisory positions shall not work hours in excess of those provided at work ordinarily performed by regular employes whose hours are governed by regulation.

(44) No employe having been injured during working hours shall be required to continue at work until able to do so.

(45) The Federation shall have permission to put up bulletin boards for the posting of notices pertaining to the Federation and its members wherever the Company bulletin boards are inadequate or insufficient for the purpose.

This matter to be adjusted between the Plant Management and the Industrial Relations Committee, and all notices will be submitted to the Plant Superintendent or someone designated by him for approval before being posted. The Management agree that there will be no delay in passing judgment on notices.

(46) Officers or Representatives of the Federation will not be discharged unless just cause be shown. However, they will be subject to lay-off when operations are curtailed [fol. 479] in their department and will receive the same consideration accorded any employe in the distribution of available work.

(47) No strike shall be called in any plant governed by this agreement until the General President of the Union has

been furnished with a full statement of circumstances by the members of the plant or department, and he has had an opportunity to confer with the officials of the Company and determine whether the grievance is a violation of this agreement.

(48) The foregoing constitutes an agreement between the Pittsburgh Plate Glass Company and those of its employes who are members of the Federation of Flat Glass Workers of America and is to become effective immediately and continue in full force (unless changed or modified by mutual consent) until November 1, 1936, and thereafter from year to year automatically renewing itself unless terminated as hereinafter provided.

Should either party desire to discontinue or modify the agreement, thirty (30) days' notice of such intent must be given in writing prior to the termination date. In the event of cancellation of the agreement, it shall be the duty of both parties to meet not less than fifteen (15) days prior to the expiration of this agreement for the purpose of endeavoring to negotiate a new agreement. It is further agreed that proposed changes or new agreement will be presented not later than the first day of conference by party serving notice.

[fol. 480] Signed and accepted this date, November 26, 1935, by Pittsburgh Plate Glass Company, By (Signed) R. L. Clause, Vice President. J. A. Wilson, Gen'l. Supt. Plate Glass Div.

Attest: Fred Keightley, Director of Labor Relations.

Federation of Flat Glass Workers of America, By (Signed) Glen W. McCabe, President; L. P. Jay, Vice President; Irwin L. DeShetler, Secretary-Treasurer; Dan Fry, Albert Johnson, Armand Hansotte, N. B. Campbell, C. M. Brummage, James Witchell, Fred A. Bindel, Robert McVay, Ed Oliver, George Hawdon, Angelo Sacco, Otto Hanovsky, Jules Votquenne, Emile Mayer, Wage Committee.

[fol. 481]

OCCUPATION BASE RATES

Covering Works Nos. 1-2-4-6-17-18-19

Effective November 16, 1935

Department No. 1—Tank

Melting Unit No. 1

Occupation No.	Occupation Name	Established Rate
1111	Fillers	.85
1113	Roll Tenders	.89
1119	Lehr Tenders	.805
1122	Instrument Men	.89
1148	Clean-Ups	.555
1149	Sweepers	.47

Drawing Unit No. 2

1211	Examiners	.805
1212	Examiners' Helpers	.68
1214	Cutters	.89
1217	Bookers	.72
1218	Carriers	.72
1221	Cranemen	.805
1223	Head Stockmen	.89
1227	Stockmen	.72
1228	Stock Cranemen	.765
1232	Relief Men	.68
1248	Clean-Ups	.555

Department No. 2—Casting

Furnace Hall Unit No. 1

2111	Boss Melters	.89
2112	Melters	.87
2113	Metal Tenders	.87
2116	Finishers	.93
2119	Fillers	.765
2120	Filling Cranemen	.805
2124	Mud-Up Men	.765
2127	Furnace Cleaners	.805
2130	Batch Delivery Men	.68
2133	Pot Lehr Tenders	.68
2140	Cullet Pickers	.47
2142	Blockers	.595
2143	Mud Mixers	.555
2146	Slag Cranemen	.805
2147	Slag Shovelers	.555
2150	Apprentices—Finishers Class A	.89
2151	Apprentices—Finishers Class B	.85
2152	Apprentices—Finishers Class C	.805
2153	Apprentices—Finishers Class D	.765
2154	Apprentices—Finishers Class E	.72
2155	Apprentices—Finishers Class F	.68
2156	Apprentices—Finishers Class G	.64
2198	Clean-Ups	.555
2199	Sweepers	.47

Casting Unit No. 2

2211	Furnace Hall Cranemen	.93
2212	Transfer Cranemen	.85
2215	Pot Tong Men	.85
2217	Teeming Cranemen	1.06

[fol. 482]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
2219	First Casters	.89
2220	Second Casters	.805
2221	Skimmers	.87
2222	Controller Men	.765
2224	Temperature Men	.89
2226	Lehr Tenders	.805
2230	Soaking Kiln Tenders	.89
2232	Nip Men	.765
2234	Ring Roll Attendants	.89
	Drawing Unit No. 3	
2311	Examiners	.85
2314	Cutters	.89
2315	Cutters (Heavy Glass)	.93
2317	Bookers	.72
2319	Carriers	.72
2321	Cranemen	.805
2324	Roll Control Operators	.72
2326	Cullet Crusher & Truck Operators	.64
2332	Rack Men	.805
2333	Stockmen	.72
2334	Stock Cranemen	.765
2335	Conveyor Pick-up Cranemen	.805
2350	Apprentices' Cutters (Heavy Glass) Class A	.89
2351	Apprentices' Cutters (Heavy Glass) Glass B	.85
2352	Apprentices' Cutters (Heavy Glass) Class C	.805
2353	Apprentices' Cutters (Heavy Glass) Class D	.765
2354	Apprentices' Cutters (Heavy Glass) Class E	.72
2355	Apprentices' Cutters (Heavy Glass) Class F	.68
	Department No. 3—Grinding	
	Laying & Turnover Unit No. 1	
3111	Head Stockmen	.89
3114	Rackmen	.805
3115	Stockmen	.72
3116	Stock Cranemen	.765
3117	Matching Cranemen	.805
3118	Crane Followers and Carriers	.72
3120	Rough Glass Matchers (Wide Ribbon)	.805
3121	Rough Glass Matchers (Narrow Ribbon)	.72
3122	Rough Glass Bookers	.72
3125	Laying Cranemen	.85
3126	Laying & Turnover Cranemen	.89
3128	First Layers—Rough	.93
3130	First Layers—Turnover	.93
3132	Second Layers	.85
3136	Stopmen	.72
3137	Plaster Carriers & Stopmen	.72
3138	Plaster Mixers	.805
3141	Head Plaster Storage Men	.805
3142	Plaster Storage & Conveyor Men	.68
3145	Turnover Bookers	.72
3146	First Strippers	.805
3147	Second Strippers	.72
3197	Relief & Clean-Up Men	.64
3198	Clean-Up Men	.555
	Grinding Unit No. 2	
3211	Transfer Car Operators	.85
3212	Transfer Car Operators & Table Cleaners	.805
3214	Table End Cleaners	.64

[fol. 483]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
3216	Controller Operators	.72
3219	First Grindermen	.89
3220	Second Grindermen	.72
3223	First Sand Gradermen	.93
3224	Second Sand Gradermen	.805
3227	Sand Pump Operators	.85
3228	Sand Pump Operators' Helpers	.64
3231	Finishers—Emery	.805
3234	Grinder Cranemen	.765
3238	Head Emery Gradermen	.89
3239	Emery Gradermen	.805
3240	Emery Mill Men	.72
3298	Clean-Up Men	.555
	DEPARTMENT No. 4—POLISHING	
	Jointing Unit No. 1	
4111	First Jointers	.93
4112	Second Jointers	.85
4116	Mixers	.72
4147	Relief & Clean-Up Men	.64
	Polishing Unit No. 2	
4211	Finishers	.89
4212	Finishers' Ass't	.72
4215	Rouge Tenders (Finishing Runners)	.68
4216	Rouge Tenders (Wet Runners)	.64
4219	Block Fixers	.68
4222	Transfer Car Operators	.85
4224	Table-End Cleaner & Car Operator	.68
4226	Polisher Cranemen	.765
4230	Block Felters	.72
4231	Block Felters' Helpers	.595
4234	Rouge Mixers	.805
4236	Rouge Mixers & Block Fixers	.765
4247	Relief & Clean-Up Men	.64
4248	Clean-Up Men	.555
	Stripping Unit No. 3	
4311	First Strippers	.89
4312	Second Strippers	.805
4315	Crane & Controlmen	.85
4318	Cranemen	.805
4321	Bookers	.72
	Washing Unit No. 4	
4411	Boss Washers	.805
4413	Washer Attendants	.72
4416	Glass Transfer Machine Operators	.805
4419	Crane Operators	.805
4420	Crane Followers	.72
4424	Washers	.765
4447	Clean-Up & Relief	.64
	DEPARTMENT No. 5—WARE ROOM	
	Factory Glass Unit No. 1	
5111	Examiners—Glass over 100 sq. ft.	.93
5113	Cutters—Glass over 100 sq. ft.	.85
5114	Cutters' Helpers—Glass over 100 sq. ft.	.68
5117	Bookers—Glass over 100 sq. ft.	.64
5120	Cranemen—Glass over 100 sq. ft.	.85
5124	Crane Followers—Glass over 100 sq. ft.	.68
5128	Stock Cranemen	.805
5129	Stock Crane Followers	.68

[fol. 484]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
5133	Cleaners—Glass 25′ to 100′ (Night only)	.555
5134	Cleaners—Glass 25′ to 100′	.43 F
5136	Examiners—Glass 25′ to 100′	.85
5139	Mechanical Cutters—Glass 25′ to 100′	.805
5145	Transfer Machine Operators—Glass 25′ to 100′	.805
5149	Cutters—Glass 25′ to 100′	.805
5152	Cutters' Helpers—Glass 25′ to 100′	.595
5155	Bookers—Glass 25′ to 100′	.595
5158	Dolly Rollers—Glass 25′ to 100′	.72
5161	Stockkeepers—Large Glass	.68
5165	Cutters & Examiners—Glass under 25′	.765
5168	Examiners—Glass under 25′	.805
5171	Cutters—Glass under 25′	.765
5173	Cutters' Helpers—Glass under 25′	.595
5176	Stockkeepers—Small Glass	.64
5179	Battery Truck Operator	.68
5181	Peg Truckmen	.68
5183	Table Repairmen	.595
5185	Carpenter Class A	.805
5187	Battery Truck Operator—Cullet	.595
5189	Office Boys	.47
5196	Laborers	.555
5198	Clean-Ups	.555
5199	Sweepers	.47
	Washing & Stocking Unit No. 2	
5211	Washers & Stockmen	.595
5215	Examiners	.85
	Order Cutting Unit No. 3	
5311	Head Stockmen	.85
5314	G. O. Re-Examiners	.805
5316	Stock Re-Examiners	.68
5317	Strip Re-Examiners	.64
5318	Box-Light Re-Examiners	.46 F
5321	G. O. Re-Examiners' Checkers	.89
5324	G. O. Cutters—Silvering	.85
5325	G. O. Cutters—Patterns	.765
5327	G. O. Cutters	.72
5330	G. O. Helpers	.595
5333	G. O. Classifier	.595
5335	Strip Cutters	.49 F
5337	Reject Cutters	.49 F
5340	Cutting Machine Operators	.49 F
5343	Rear View Mirror Examiners	.45 F
5346	Rear View Mirror Cutters	.45 F
5347	Rear View Mirror Wrappers	.45 F
5351	Re-Examining Conveyor Feeders	.43 F
5353	Re-Examining Conveyor Reject Handlers	.43 F
5355	Strip Haulers	.43 F
5357	G. O. Cleaners	.43 F
5360	Re-Examining Conveyor Feeders (Male Night Only)	.595
5362	Re-Examining Conveyor Reject Handlers (Male Night Only)	.595
5366	Battery Truck Operators	.68
5368	Incentive Checkers	.68
5398	Laborers	.555
5395	Beginners	.40 F

OCCUPATION BASE RATES—Continued

[fol. 485]

Tapestry Unit No. 4

Occupation No.	Occupation Name	Established Rate
5411	Examiners (Pol.)	.85
5412	Examiners (Rough)	.805
5416	G. O. Cutters	.72
5419	Cutters—Glass 25′ to 100′	.805
5420	Cutters' Helpers	.595
5424	Dolly Rollers	.72
	Department No. 6—Repolishing Unit No. 1	
6111	Scratch Wheelmen	.68
6115	Repolisher Machine Operators	.47 F
6118	Blockers	.64
6121	Large Brush Machine Operators	.555
6123	Glass Cleaners	.43 F
6126	Re-Examiners	.805
6129	Incentive Checkers	.68
6132	Classifiers	.595
	Department No. 7—Pot House Unit No. 1	
7111	Grinding Mill Operators	.64
7112	Scale Car Operators	.68
7113	Skip Operators	.595
7114	Blunger Operators	.89
7115	Blunger Feeders	.64
7119	Pot Pressers	.85
7121	Pot Molder Handlers	.595
7123	Mold Assemblers	.68
7125	Pot Finishers	.68
7128	Head Pot Drier	.805
7130	Pot Drier Attendant	.68
7133	Pot Shell Pickers	.595
7134	Pot Shell Examiners	.68
7140	Pug Mill Operators	.64
7143	Tuile Makers	.64
7144	Tuile Makers' Helpers	.595
7147	Stone Makers	.68
7148	Stone Makers' Helpers	.555
7151	Head Finished Stock Handlers	.64
7152	Finished Stock Handlers	.595
7154	Battery Truck Operators	.68
7156	Elevator Operators	.555
7158	Oilers	.595
7198	Laborers	.555
7199	Sweepers	.47
	Department No. 9—River Dock Unit No. 1	
9111	Whirley Operators	.85
9113	Barge Men	.595
9116	Drag Line Operators	.805
9121	Laborers	.555
	Department No. 10—Sand Drier Unit No. 1	
10111	Cranemen	.765
10114	Drier Operators	.595
10117	Unloaders	.555
10120	Screenmen	.555

OCCUPATION BASE RATES—Continued

[fol. 486]

DEPARTMENT No. 13—BATCH, TANK
Unit No. 1

Occupation No.	Occupation Name	Established Rate
13111	Weighers and Mixers	.85
13112	Weighers and Mixers' Helpers	.68
13118	Cullet Washers	.68

DEPARTMENT No. 14—BATCH, FURNACE
Unit No. 1

14111	Weighers—Carrara & Optical Glass	.805
14114	Weighers	.765
14115	Weighers' Helpers	.72
14118	Mixers	.68
14122	Cullet Washers	.68
14124	Cullet Unloaders	.595
14128	Battery Truck Operators	.68
14148	Clean-Ups	.555

DEPARTMENT No. 16—ROUGE
Unit No. 1

16111	Rouge Burners	.72
16112	Rouge Burners' Helpers	.595

DEPARTMENT No. 17—PUMPING PLANT—
RIVER OR CREEK WATER
Unit No. 1

17111	Pump Operators	.72

DEPARTMENT No. 21—STEAM POWER—
MAIN POWER PLANT
Unit No. 1

21111	Water Tenders	.805
21113	Boiler Firemen	.72
21115	Water Tenders & Boiler Firemen	.765
21120	Ash Handlers	.68

DEPARTMENT No. 26—ELECTRIC CURRENT—
PURCHASED (SUB STATION)
Unit No. 1

26111	Sub-Station Operators	.89

DEPARTMENT No. 36—RAILROAD
Unit No. 1

36111	Conductors (Main Line)	.93
36112	Conductors	.805
36115	Locomotive Engineers	.85
36118	Locomotive Firemen	.72
36122	Brakemen	.72
36125	Hostlers	.595
36129	Trackmen	.68
36146	Laborers	.555

DEPARTMENT No. 37—LOCOMOTIVE CRANES
Unit No. 1

37111	Locomotive Crane Operators	.85
37114	Locomotive Crane Operators' Helpers	.68

DEPARTMENT No. 38—TRUCKING—GASOLINE
Unit No. 1

38111	Truck Operators	.72
38114	Truck Operators' Helpers	.595
38117	Tractor Operators	.72
38120	Tractor Operators' Helpers	.595
38125	First Auto Mill-Wright	.89

OCCUPATION BASE RATES—Continued

[fol. 487]

DEPARTMENT No. 41—BEVELING & MITERING
Unit No. 1

Occupation No.	Occupation Name	Established Rate
41111	Head Cutters	.85
41113	Pattern Cutters	.765
41116	Strip Cutters	.49 F
41120	Roughers	.805
41122	Emery Edgers	.805
41124	Horizontal Wheel Smoothers	.805
41127	Upright Wheel Smoothers	.68
41130	Corner Smoothers	.45 F
41134	White Wheel Operators	.68
41136	Buffers	.68
41139	S. & M. Edging Machine Operators	.64
41141	S. & M. Edging Machine Operators' Helpers	.47 F
41144	Weber Edging Machine Operators	.47 F
41147	Re-Examiners	.805
41150	Scratch Wheel Operators	.68
41153	Glass Cleaners	.43 F
41156	Miter Machine Operators	.72
41159	Hole Drillers	.64
41163	Engravers	.68
41168	Helpers	.595
41169	Helpers	.47 F
41173	Incentive Checkers	.68
41175	Beginners	.40 F
41199	Sweepers	.47

DEPARTMENT No. 42—SILVERING
Unit No. 1

42111	Blockers	.64
42113	Glass Cleaners	.43 F
42116	Re-Examiners	.805
42119	Scratch-Wheel Operators	.68
42124	Washers	.64
42127	Silverers	.765
42131	Copper Platers	.765
42135	Mirror Cleaners	.47 F
42139	Mirror Cleaners & Inspectors	.72
42143	Mirror Strippers	.64

DEPARTMENT No. 43—PATTERN SHOP
Unit No. 1

43111	Pattern Makers Class A	.85
43112	Pattern Makers Class B	.805
43118	Pattern Keepers	.595
43125	Apprentices Class A	.765
43126	Apprentices Class B	.72
43127	Apprentices Class C	.68
43128	Apprentices Class D	.64
43129	Apprentices Class E	.595
43130	Apprentices Class F	.555

DEPARTMENT No. 44—FOUNDRY
Unit No. 1

44111	Cupola Operators	.765
44113	Cupola Laborers	.595
44118	Molders Class A	.93
44119	Molders Class B	.89
44120	Molders Class C	.805
44125	Molder Apprentices Class A	.765
44126	Molder Apprentices Class B	.72

[fol. 488]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
44127	Molder Apprentices Class C	.68
44128	Molder Apprentices Class D	.64
44129	Molder Apprentices Class E	.595
44130	Molder Apprentices Class F	.555
44134	Molding Machine Operators	.64
44136	Molding Machine Operators' Helpers	.595
44139	Core Makers Class A	.85
44140	Core Makers Class B	.805
44141	Core Makers Class C	.765
44144	Core Makers' Apprentices Class A	.72
44145	Core Makers' Apprentices Class B	.68
44146	Core Makers' Apprentices Class C	.64
44147	Core Makers' Apprentices Class D	.595
44148	Core Makers' Apprentices Class E	.555
44151	Cleaners & Chippers	.595
44154	Carpenters (Flask) Class B	.765
44158	Cranemen	.765
44161	Annealing Oven Tenders	.595
44164	General Repairmen	.805
44168	Flask Handlers	.68
44171	Labor Bosses	.64
44174	Laborers	.595
44177	Cleaners—Sand Blast	.64
44198	Clean-Ups	.555
	DEPARTMENT No. 45—MACHINE SHOP	
	Shop Unit No. 1	
45111	Machinists—Class A	.93
45112	Machinists—Class B	.89
45113	Machinists—Class C	.805
45117	Apprentices Class A	.765
45118	Apprentices Class B	.72
45119	Apprentices Class C	.68
45120	Apprentices Class D	.64
45121	Apprentices Class E	.595
45122	Apprentices Class F	.555
45125	Machinists' Helpers	.68
45129	Welders'—Gas and Electric	.93
45132	Welders—Class A	.89
45133	Welders—Class B	.805
45137	Welders' Apprentices—Class A	.765
45138	Welders' Apprentices—Class B	.72
45139	Welders' Apprentices—Class C	.68
45140	Welders' Apprentices—Class D	.64
45141	Welders' Apprentices—Class E	.595
45142	Welders' Apprentices—Class F	.555
45145	General Repairmen	.805
45150	Sheet Metal and Tinners—Class A	.89
45151	Sheet Metal and Tinners—Class B	.805
45155	Sheet Metal and Tinners' Helpers	.68
45160	Cranemen	.765
45167	Tool Room Attendants	.72
45196	Laborers	.595
45198	Clean-Ups	.555
45199	Sweepers	.47
	Factory Unit No. 2	
45211	First Millwrights—Tank or Casting Hall	.89
45214	Millwrights' Helpers, Tank or Casting Hall	.68
45216	Lehr Oilers, (Two Lehrs) Tank or Casting Hall	.745

[fol. 489]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
45217	Lehr Oilers (One Lehr) Tank or Casting Hall	.72
45218	Lehr Oilers, (Short Lehr) Tank or Casting Hall	.68
45222	First Millwrights	.89
45223	Second Millwrights	.805
45226	First Millwrights—G. & P.	.89
45227	Second Millwrights—G. & P.	.805
45228	Second Millwrights—G. & P. Chain Drive	.805
45232	First Millwrights—G. & P. Tables	.89
45233	Millwrights' Helpers, G. & P. Tables	.68
45236	First Millwrights—G. & P. Trunks	.89
45237	Millwrights' Helpers, G. & P. Trunks	.68
45240	First Millwrights—Grinders	.89
45241	Second Millwrights—Grinders	.805
45243	Second Millwrights Grinder Runners	.805
45244	Runner Platers	.68
45248	Head Repairmen	.93
45251	First Millwrights—Boilers	.89
45255	First Millwrights—Pumps	.89
45257	First Millwrights—Wareroom	.89
45260	Structural Workers	.89
45263	General Repairmen	.805
45266	General Repairmen's Helpers	.68
45269	Sweepers	.47
45270	Crane Cleaners & Oilers	.72
	Department No. 46—Blacksmith Shop Unit No. 1	
46111	Blacksmiths, Class A	.89
46112	Blacksmiths, Class B	.805
46117	Blacksmiths, Helpers	.68
46146	Laborers	.555
	Department No. 47—Pipe Shop Unit No. 1	
47111	Head Pipe Fitters	.85
47114	Pipe Fitters	.805
47117	Pipe Machine Operators	.765
47120	Pipe Fitters' Helpers	.68
47122	H2 SO4 Line Men	.85
	Department No. 48—Electric Shop Unit No. 1	
48111	Electricians—Class A	.89
48112	Electricians—Class B	.805
48116	Electricians' Helpers	.68
48119	Electricians'—Class A (Casting Hall or Tank)	.89
48122	Electricians—Class A (G. & P.)	.89
48123	Electricians—Class B (G. & P.)	.805
48125	Electricians—Class B (Washer Conveyor and Warehouse)	.805
48132	Electricians—Class A (Armature Winders)	.89
48133	Electricians—Class B (Armature Winders)	.805
48136	Electricians—Class A (Coil Winders)	.89
48137	Electricians—Class B (Coil Winders)	.805
48140	Electricians—Class A (Meter Men)	.89
48141	Electricians—Class B (Battery Truck Rps.)	.805
48146	Electricians—Class B (Telephone Rps.)	.805
48150	Apprentices—Class A	.765

[Vol. 490]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
48151	Apprentices—Class B	.72
48152	Apprentices—Class C	.68
48153	Apprentices—Class D	.64
48154	Apprentices—Class E	.595
48155	Apprentices—Class F	.555
48160	Battery Men	.72
48161	Machinists—Class B	.80
	Department No. 49—Carpenter Shop Unit No. 1	
49111	Lumber Checkers	.765
49115	Pattern Makers—Class A	.85
49116	Pattern Makers—Class B	.805
49120	Carpenters—Class A	.805
49121	Carpenters—Class B	.765
49126	Carpenters' Helpers	.68
49129	Roof Repairmen	.72
49133	Painters	.805
49135	Painters' Helpers	.68
49139	Stop Makers	.595
49140	Pin Makers	.555
49145	Head Window Cleaners	.595
49146	Window Cleaners	.555
49149	Building Maint. Men	.805
	Department No. 50—Bricklaying Unit No. 1	
50111	Bricklayers	.80
50114	Bricklayers' Helpers (Hot Repair)	.64
50118	Mortar Mixers	.595
50123	Apprentices—Class A	.85
50124	Apprentices—Class B	.805
50125	Apprentices—Class C	.765
50126	Apprentices—Class D	.72
50127	Apprentices—Class E	.68
50128	Apprentices—Class F	.64
50146	Laborers	.555
	Department No. 51—Packing & Shipping Box Making—Unit No. 1	
51111	Head Box Makers	.805
51114	Cutters	.765
51117	Cutters & Nailers	.785
51120	Nailers	.72
51146	Laborers	.555
	Packing Unit No. 2	
51211	Checkers & Markers	.72
51214	Battery or Gasoline Truck Operators	.68
51217	Head Wagon Men	.765
51219	Wagon Men	.68
51223	First Packers	.805
51225	Cranemen	.805
51230	Large & Medium Glass Packers	.765
51234	Small Glass Packers	.72
51237	Box Haulers	.595
51241	Stock & Strip Checkers	.68
51245	Strip Paperers	.43 F
51249	Paper Cutters—Machine	.70
51251	Paper Cutters—Hand	.64
51255	Foremen's Clerks	.72

[fol. 491]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
51258	Clerks	.47 F
51296	Laborers	.555
51299	Sweepers	.47
	Department No. 51—Packing & Shipping	
	Loading Unit No. 3	
51311	Head Loaders—Crane Glass	.89
51314	Loaders—Crane Glass	.765
51316	Cranemen—Crane Glass	.805
51321	Head Loaders (Medium & Small Glass)	.805
51324	Loaders (Medium & Small Glass)	.72
51326	Cranemen & Packers (Medium & Small Glass)	.765
51331	Car Bracers	.765
51334	Head Loaders—Small Glass	.765
51335	Loaders—Small Glass	.72
	Department No. 56—Fire Protection	
	Watchmen & Patrolmen Unit No. 2	
56111	Fire Inspectors	.805
56211	Patrolmen	.595
56214	Watchmen	.555
56217	Employment & Gate Attendants	.805
56220	Gate Attendants	.68
56221	Gate Attendants	.555
56223	Gate Attendants	.47 F
56224	Gate Attendants & First Aid	.595
	Department No. 57—Yard	
	Unit No. 1	
57111	Batch Unloaders—Soda Ash, Salt Cake and Limestone	.68
57115	Plaster Unloaders (Power Shovel)	.595
57117	Copperas Unloaders (Power Shovel)	.595
57119	Lumber Unloaders	.555
57121	Lumber Stackers	.555
57125	Vacuum Cleaner Operators	.64
57128	Pot Breakers	.555
57131	Janitress	.47 F
57132	Janitors	.595
57134	Janitors (Window Cleaners)	.555
57135	Washroom Attendants	.51
57136	Washroom Attendants	.47
57139	Washroom Attendants	.47 F
57147	Groundkeepers	.555
57151	Battery Truck Operators (Waste)	.595
57196	Laborers	.555
57198	Clean-ups	.51
57199	Sweepers	.47
	Department No. 67—Chrome Plating	
	Unit No. 1	
67114	Chrome Plating Operators—Class A	.89
67115	Chrome Plating Operators—Class B	.805
67120	Chrome Plating Operators' Helpers	.68
	Department No. 69—Chipping & Sand Blasting	
	Unit No. 1	
69116	Chippers	.93
69121	Packers & Loaders	.72
69122	Packers & Loaders' Helpers	.64

OCCUPATION BASE RATES—Continued

[fol. 492]

Department No. 73—Carrara

Cutting Unit No. 1

Occupation No.	Occupation Name	Established Rate
73111	Head Examiners	.93
73113	Examiners	.85
73116	Cutters—Glass over ¾" Thick	.85
73117	Cutters—Glass ¾" thick and under	.805
73121	Apprentices—Class A	.765
73122	Apprentices—Class B	.72
73123	Apprentices—Class C	.68
73124	Apprentices—Class D	.64
73125	Apprentices—Class E	.595
73126	Apprentices—Class F	.555
73130	Cutters' Helpers	.595
73134	Ashlar Cleaner & Matchers	.43 F

Edging Unit No. 2

73211	Rub-Bed Edgers	.765
73212	Rub-Bed Edgers' Helpers	.595
73217	Edge Grinders—Large Machine	.805
73219	Edge Grinders—Medium Machine	.765
73221	Edge Grinders—Small Machine	.72
73225	Edge Grinders' Helpers	.64
73228	First Edge Finishers	.765
73229	Second Edge Finishers	.68
73234	Edge Finishers—Hand & Flat Wheel	.45 F
73237	Crane Wood Wheel Polishers	.805
73240	Edge Polishers	.68
73244	General Helpers	.595
73247	Feed-Up Boys	.51
73251	Hole Drillers	.72
73255	Port Light Machine Operators	.68
73260	First Layout & Checkers	.93
73262	Second Layout & Checkers	.85
73266	Layout & Checkers' Helpers	.595
73270	First Inspectors & Fitters	.89
73272	Second Inspectors & Fitters	.72
73274	Inspectors & Fitters' Helpers	.595
73277	Glass Cleaners	.47 F
73295	Beginners	.40 F
73296	Laborers	.555

Sand Blasting & Chipping Unit No. 3

73311	First Blasters	.805
73313	Second Sandblasters	.68

Decorating Unit No. 4

73411	Decorators	.805
73416	Apprentices—Class A	.765
73417	Apprentices—Class B	.72
73418	Apprentices—Class C	.68
73419	Apprentices—Class D	.64
73420	Apprentices—Class E	.595
73421	Apprentices—Class F	.555
73446	Laborers	.555

Laminating Unit No. 5

73511	Assemblers	.595

Packing & Shipping Unit No. 6

73611	Packers & Loaders	.72
73614	Packers' Helpers & Car Bracers	.68
73616	Packers & Loaders' Helpers	.64
73618	Packers' Helpers & Cleaners	.47 F
73623	Cranemen & Packers	.765
73627	Packers' Clerks	.47 F

OCCUPATION BASE RATES—Continued

[fol. 493]

Occupation No.	Occupation Name	Established Rate
	Miscellaneous Unit No. 9	
78921	Incentive Checkers	.68
	Department No. 74—Optical	
	Cutting Unit No. 1	
74111	Battery Truck Operator & Gaugers	.68
74113	Snapping Machine Adjusters	.805
74116	Head Checkers	.555F
74119	Cutters	.49 F
74123	Snappers	.43 F
74125	Snapping Machine Feeders	.43 F
74128	Examiners—Cut Glass	.47 F
74130	Examiners—Relief & Checkers	.51 F
74134	Weighers	.45 F
74138	Corner Pinchers	.45 F
74141	Grinders—Cut Glass	.43 F
74145	Beginners	.40 F
	Pressing Unit No. 2	
74211	Hand Press Operators	.805
74213	Hand Press Feeders	.64
74216	Automatic Press Operators	.805
74218	Automatic Press Feeders	.64
74223	Head Examiners—Pressed Glass	.47 F
74226	Examiners—Pressed Glass	.45 F
74229	Fin. Grinders—Pressed Glass	.45 F
74245	Beginners	.40 F
	Packing Unit No. 5	
74511	First Packers	.805
74513	Packers & Loaders	.64
74518	Wrappers—Cut Glass	.43 F
74520	Wrappers—Pressed Glass	.45 F
74545	Beginners	.40 F
	Department No. 77—Bending	
	Unit No. 1	
77111	Benders	.805
77114	Benders' Helpers	.72
77120	Packers & Loaders	.72
77121	Packers & Loaders' Helpers	.64
	Department No. 80—Laminating	
	Plastic Unit No. 1	
80111	Head Operators	.49 F
80115	Dispatchers	.72*
80120	Case Openers	.595
80122	Inspectors	.47 F
80124	Sheet Hangers	.43 F
80126	Conditioning Room Operators	.64
80130	Scribers—Contract Orders	.44 F
80132	Breakers—Contract Orders	.43 F
80136	Die Machine Operators	.68
80137	Die Machine Operators' Helpers	.555*
80138	Die Machine Operators' Helpers	.43 F
80141	Scribers—Miscl. Orders	.47 F
80143	Breakers—Miscl. Orders	.47 F
80146	Markers	.47 F
80150	Scrap Packers	.595
80153	Clerks	.47 F
80196	Laborers	.555

* Night turn only.

OCCUPATION BASE RATES—Continued

[fol. 494]

Glass Cutting—Unit No. 2

Occupation No.	Occupation Name	Established Rate
80199	Sweepers	.47 F
80211	Quality Men	.85
80213	Glass Inspectors	.805
80216	Klages Cutting Machine—Set-up	.765
80222	Klages Cutting Machine Operators and Breakers	.595*
80223	Klages Cutting Machine Operators and Breakers	.45 F
80227	Pattern Cutters (Hand)	.765
80229	Reject Classifiers & Cutters	.765
80231	Order Cutters—Male	.72
80235	Miscl. Order Pattern Cutters	.765
80237	Replacement Pattern Cutters	.765
80243	Production Clerks	.72
80245	Foremen's Clerks	.47 F
80247	Incentive Checkers	.68
80252	Glass Shifters	.595
80256	Battery Truck Operators	.68
80260	Cullet Men	.555
80298	Clean-ups	.555
80299	Sweepers	.47 F

Department No. 80—Laminating
Assembling & Pressing—Unit No. 3

80311	Expeditors	.765
80313	Conveyor Feeders	.64*
80314	Conveyor Feeders	.45 F
80315	Wipers	.555*
80316	Wipers	.45 F
80317	Plastic Washing Mach. Feeder	.68*
80318	Plastic Washing Mach. Feeder	.45 F
80319	Adhesive Spray Operator	.68*
80320	Adhesive Spray Operator	.45 F
80321	Assemblers	.595*
80322	Assemblers	.45 F
80323	Plastic Reject Checkers	.64*
80324	Plastic Reject Checkers	.45 F
80325	Assembly Checkers	.765*
80326	Assembly Checkers	.45 F
80327	Re-wash Operators	.595*
80328	Re-wash Operators	.45 F
80329	Replacement Operators	.64*
80330	Replacement Operators	.45 F
80331	Relief Operators	.595*
80332	Relief Operators	.45 F
80337	Cooling Conveyor Feeders	.595*
80338	Cooling Conveyor Feeders	.45 F
80341	Preliminary Press Operators	.595*
80342	Preliminary Press Operators	.45 F
80345	Edge Checkers	.64*
80346	Edge Checkers	.45 F
80349	Rack Loaders	.595*
80350	Rack Loaders	.45 F
80354	Autoclave Operators	.93
80356	Autoclave Operators' Helpers	.64
80358	Acid Tank Operator	.805
80362	Re-press Operators—S. W. Press	.765
80365	Re-press Patchers—S. W. Press	.555*

* Night turn only.

[fol. 495]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
80366	Re-press Patchers—S. W. Press	.43 F
80369	Re-press Operators—X-Autoclave	.765
80373	Specialty Assemblers	.765
80375	Specialty Assemblers' Helpers	.64
80378	Specialty Glass Cleaners	.47 F
80380	Bag Loader	.72
80382	Bag Repairmen	.68
80385	Acid Tank Cleaners & Fillers	.64
80388	A. & P. Utility Men	.64
80391	Foremen's Clerks	.47 F
80393	Incentive Checkers	.68
80398	Clean-ups	.555
80399	Sweepers	.47 F

DEPARTMENT NO. 80—LAMINATING
Edging—Unit No. 4

80411	Development—Men—Edging Machine	.805
80412	Edging Machine Set-up Men—Owens	.68
80413	Edging Machine Set-up Men—Weber	.765
80414	Edging Machine Set-up Men—Klages	.765
80415	Glass Shifters & Edging Machine Set-up Men, Curved Edge	.64
80416	Edging Machine Set-up Men—Helpers	.64
80420	Owens Machine Operators	.595*
80421	Owens Machine Operators	.45 F
80422	Weber Machine Operators	.595*
80423	Weber Machine Operators	.43 F
80424	Klages Machine Operators	.595*
80425	Klages Machine Operators	.47 F
80426	Curved Corner Machine Operators	.595*
80427	Curved Corner Machine Operators	.45 F
80428	Foster Machine Operators	.64*
80429	Foster Machine Operators	.47 F
80436	Autoclave Rack Unloaders	.595*
80437	Autoclave Rack Unloaders	.47 F
80440	Roughers	.805
80441	Roughers (Samples)	.45 F
80442	Horizontal Wheel Smoothers	.805
80444	Head Corner Wheel Smoothers	.64*
80445	Head Corner Wheel Smoothers	.48 F
80446	Corner Wheel Smoothers	.595*
80447	Corner Wheel Smoothers	.45 F
80448	White Wheel Operators	.68
80450	Harassing Wheel Operators	.595*
80451	Harassing Wheel Operators	.45 F
80452	Notching Jig Operators	.595*
80453	Notching Jig Operators	.45 F
80458	Head Fitting Form Checkers	.765
80459	Fitting Form Checkers	.72
80461	Fitting Form Stock-Men	.64
80462	Hole Drillers (Specialty Glass)	.765
80463	Hole Drillers (Standard Auto Glass)	.64
80464	Reamers	.47 F
80465	Trade Markers	.64*
80466	Trade Markers	.45 F
80467	Edge Checkers—Chips	.64*
80468	Edge Checkers—Chips	.47 F
80469	Trade Mark Stencil Preparers	.47 F

* Night turn only.

[fol. 496]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
80470	Sand Blast Operators	.68
80471	Sand Blast Operators' Helpers	.595
80473	Head Wheel Dressers	.85
80474	Wheel Dressers	.765
80475	Wheel Dressers' Helpers	.68
80477	Acid Rack Loaders	.595*
80478	Acid Rack Loaders	.47 F
80479	Scratch Wheel Operators	.68
80480	Scratch Rubbers	.64*
80481	Scratch Rubbers	.47 F
80482	Rouge Ball Makers	.595
80484	Glass Cleaners	.595*
80485	Glass Cleaners	.47 F
80486	Glass Shifters	.595
80488	Head Incentive Checkers	.72
80489	Incentive Checkers	.68
80491	Foremen's Clerks	.47 F
80492	Miscl. Order Checkers	.68
80493	Bookers	.64*
80494	Bookers	.47 F
80497	Emery Pan Cleaners	.595
80498	Clean-ups	.555
80499	Sweepers	.47 F
	Caulking—Unit No. 5	
80511	Rack Loaders	.595*
80513	Rack Loaders	.47 F
80516	Acid Tank Operators	.805
80520	Caulking Wheel Operators	.64*
80522	Caulking Wheel Operators	.45 F
80526	Caulking Cleaners	.595*
80528	Caulking Cleaners	.43 F
80531	Repair Caulked Edges	.64*
80533	Repair Caulked Edges	.47 F
80536	Hand Grooving & Caulking	.64*
80538	Hand Grooving & Caulking	.47 F
80543	Washing Machine Feeders	.595*
80545	Washing Machine Feeders	.47 F
80548	Glass Shifters	.595
80553	Incentive Checkers	.68
80558	Foremen's Clerks	.47
80597	Acid Tank Cleaners & Fillers	.64
80598	Clean-ups	.555
80599	Sweepers	.47
	Department No. 80—Laminating Final Inspection—Unit No. 6	
80613	Conveyor Glass Checkers	.72*
80615	Conveyor Glass Checkers	.45 F
80618	Conveyor Glass Inspectors	.805
80621	Check Inspectors	.85
80626	Head Miscl. Order Inspectors	.85
80628	Miscl. Order Inspectors	.805
80632	Whse. Stock Glass Sorters	.47 F
80635	Whse. Stock Glass Inspectors	.805
80639	Sample Cleaners	.47 F
80641	Sample Inspectors	.47 F
80645	Glass Shifters	.595
80649	Incentive Checkers	.68

* Night turn only.

[fol. 497]

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
80698	Clean-ups	.555
80699	Sweepers	.47 F
	Packing & Stocking—Unit No. 7	
80711	Conveyor Unloaders & Packers	.64*
80713	Conveyor Unloaders & Packers	.44 F
80717	Head Checker	.805
80719	Checkers' Clerks	.72*
80721	Checkers' Clerks	.47 F
80726	Contract Box Stuffers	.64*
80728	Contract Box Stuffers	.44 F
80734	Contract Box Wirers	.64
80741	Miscellaneous Order Packers	.72
80744	Box Haulers	.595
80798	Clean-ups	.555
80799	Sweepers	.47 F
	Templates & Fitting Frames—Unit No. 8	
80811	Template Men	.89
80815	Template Makers—Class A	.93
80816	Template Makers—Class B	.89
80817	Template Makers—Class C	.805
80819	Template Makers' Helpers	.68
	Reclamation—Unit No. 10	
80911	Head Cutters	.805
80913	Reject Classifiers	.765
80915	Duplate Pattern Cutters—Hand	.765
80917	Sample Glass Cutters	.45 F
80920	Klages Cutting Machine Operators	.595*
80921	Klages Cutting Machine Operators	.45 F
80922	Klages Cutting Machine Breakers	.595*
80923	Klages Cutting Machine Breakers	.45 F
80929	Tank Cutters—Plastic	.68*
80930	Tank Cutters—Plastic	.45 F
80933	Trade Markers	.64*
80934	Trade Markers	.45 F
80936	Bookers	.47 F
80937	Glass Shifters	.595
80939	Mechanical Saw Operators	.765
80940	Foremen's Clerks	.47 F
80947	Tank Cleaners	.595
80948	Clean-ups	.555
80949	Sweepers	.47 F
	Miscellaneous—Unit No. 11	
80966	Box Assembly Machine Operators	.64
80967	Box Assembly Nailers	.64
80969	Elevator Operators	.595
	Department No. 81—Case-Hardening Unit No. 1	
81111	Furnace Operators	.805
	Department No. 82—Real Estate Unit No. 1	
82114	Carpenters—Class B	.765
82133	General Repairmen	.89
82146	Laborers	.555

* Night turn only.

OCCUPATION BASE RATES—Continued

[fol. 498]

Department No. 88—Store Front
Unit No. 1

Occupation No.	Occupation Name	Established Rate
88111	Machinists—Class A	.93
88112	Machinists—Class B	.89
88118	Fabricators—Class A	.68
88119	Fabricators—Class B	.64
88120	Fabricators—Class C	.595
88125	Platers	.64
88129	Buffers—Class A	.68
88130	Buffers—Class B	.64
88131	Buffers—Class C	.595
88146	Laborers	.555

Department No. 89—Double Glazing
Unit No. 1

89113	Assemblers	.64
89118	Assemblers' Helpers	.595
89124	Testers	.64

Department No. 90—Gas Wells & Lines (General)
Unit No. 1

90119	Pump Operators	.72
90126	Drilling Machine Operators	.805
90127	Drilling Machine Operators' Helpers	.68
90133	Welders—Class B	.805
90137	Blacksmiths—Class A	.89
90142	Blacksmiths' Helpers	.68
90145	Meter Men	.765
90148	Truck Drivers	.72
90149	Truck Drivers' Helpers	.595
90154	Head Line Repairmen	.765
90156	Line Repairmen	.68
90157	Line Repairmen's Helpers	.595
90196	Laborers	.555

General Research Laboratory

	Machinists—Class A	.93
	First Millwrights	.89
	Second Millwrights	.805
	Electricians—Class B	.805
	Laboratory Ass'ts	.805
	Laboratory Ass'ts	.64
	Helpers	.68
	Janitors	.68
	Laborers	.555
	Clean-ups	.555
	Sweepers	.47

* Night turn only.

OCCUPATION BASE RATES—Continued

[fol. 499]

Covering Works 10–11–12

Effective November 16, 1935

Occupation No.	Occupation Name	Established Rate
106	Tank Operator	.87
107	Filler	.58
110	Tank Utility	.58
127	Kilnman	.83
128	Balcony	.71
152	Cut-Off	.74
153	Cut-off Helpers (2nd)	.62
157	Cut-off Utility	.62
156	Delivery	.66
177	Lehr Feeders	.62
178	Lehr Offbearers	.62
513	Checker	.58
515	Glass Transfer	.58
517	Papering Uncut Stock	.53
524	Clean-Ups	.53
527	Packers	.71
528	Snappers	.62
529	Packers—Empty Box Truckers (Box Boys)	.58
530	Elevator Operators	.53
531	Stock Sheet Assemblers	.61
533	Heavy Cut Size Assemblers	.58
534	Window Glass Assemblers	.53
535	Assembly Truck Operator	.61
551	Paper Cutters	.58
552	Paper Cutting Machine Operators	.58
553	Paper Cutting Machine Helpers	.53
554	Paper Boys	.53
562	Creasing Machine Operator	.58
563	Creasing Machine Operator's Helpers	.53
564	Paper Delivery	.53
565	Truckers Box Storage	.53
566	Auto Truck Operators (Boxes & Folders)	.67
574	Clean-Ups	.53
	Glass Washer	.53
577	Warehouse Truckers	.58
578	Box Stackers	.58
599	Warehouse Cleanups	.53
705	Moulders	.61
707	Cutters & Finishers	.65
710	Hot Tank Repairmen	.65
722	Clay House Labor (Reg.)	.61
724	Cleanups	.53
1306	Batch Mixers	.75
1307	Batch Mixers' Helpers	.62
1308	Cullet Handlers	.53
1309	Tractor Operator	.58
1312	Crusher Operator	.58
2205	Boiler Firemen	.67
2207	Heating System Attendant	.61
3005	Producer Operator	.73
3007	Blowout Man	.65
3008	Ash Handlers	.58
3805	Truck Drivers	.67
4505	Machinists	.93

[fols. 500–501]

4507	Welders	.89
4508	Welders' Helpers	.62

OCCUPATION BASE RATES—Continued

Occupation No.	Occupation Name	Established Rate
4509	Millwrights	.84
4510	General Repairmen—A	.80
4511	General Repairmen—B	.73
4512	Shift Repairmen	.75
4514	General Repairmen's Helpers—A	.62
4515	General Repairmen's Helpers—B	.58
4516	Oilers	.62
4524	Clean-Ups	.53
4605	Blacksmith	.80
4606	Blacksmith's Helper	.62
4805	Electricians—A	.80
4806	Electricians—B	.73
4807	Electricians' Helpers	.58
4904	Carpenters—A	.80
4905	Carpenters—B	.69
4906	Carpenters' Helpers	.58
4908	Painters—Factory Reg	.58
4909	Painters—Factory—High	.65
5105	Loaders	.68
5106	Loaders'—Truckers	.58
5608	Gate Attendant	.53
5607	Patrolmen	.56
5707	Shovel Operator	.67
5722	Batch Unloaders (Power Shovel)	.58
5723	Labor	.53
7906	Siding Sawyer	.71
7907	Heading Sawyer	.71
7908	Ripper	.58
7909	Off-Bearers (Saws)	.53
7910	Heading Printer	.58
7911	Machine Nailers	.62
7912	Machine Cleaters	.53
7913	Hand Framers	.58
7914	Box Shop Truckers	.53
7915	Case Nailers	.62
7916	Lumber Transfer Car Operator	.53
7917	Shock Distributors	.53
7918	Saw Filer	.71
7924	Clean-Ups	.53

[fol. 502] PETITIONER'S EXHIBIT 4

Agreement Governing Wages and Working Rules of the Federation of Flat Glass Workers of America for Members Employed by Pittsburgh Plate Glass Co.

For Members Employed by Pittsburgh Plate Glass Co.

[fol. 503] Subject Recognition

Paragraph Number

1. Recognition.
2. Negotiation.
3. Grievance Men and Industrial Relations Committees.
4. Settlement of Grievances.

Seniority and Related Matters

Paragraph Number

5. Seniority.
6. Promotion Schedule.
7. Return to Former Job or Department.
8. Departmental Transfers.
9. Lay-offs.
10. Complaint Against Discharge or Suspension.
11. Employment at Other Plants.
12. Reemployment.
13. Recall of Employees.

Wages

14. Wages.
15. Incentive System.
16. Rate on Other Than Regular Work.
17. Rate on Repair Work.
18. Commission on Rate Differentials.

Hours

19. Hours and Overtime.
20. Rotation of Shifts.
21. Return of Tools on Company Time.
22. Holidays.
23. Distribution of Work.
24. Hours in Supervisory Positions.

Working Conditions

25. Safety and Health.
26. Number of Employees on An Operation.
27. Rest and Lunch Periods.

Miscellaneous

28. Physical Examinations.
29. Bulletin Boards.
30. Strikes.
31. Termination.

The Pittsburgh Plate Glass Company (hereinafter called the "Company") covenants and agrees, with the intention of being legally bound, to apply and abide by the following

rules and regulations in its relationship with its employees who are members of the Federation of Flat Glass Workers of America (hereinafter called the "Union") employed in the Company's plate and safety glass plants located at Creighton, Pennsylvania, and Ford City, Pennsylvania, and its window glass plants located at Mount Vernon, Ohio, Clarksburg, West Virginia, and Henryetta, Oklahoma:

(1) Recognition. The Union is herewith recognized as the collective bargaining agency for those employees who are members thereof in the plants above named. The Company recognizes, and will not interfere with, the right of its employees to be members of the Union. There shall be no discrimination, interference, restraint or coercion by the Company or any of its agents against any employee because of membership in the Union. The Company will not reclassify employees or duties or occupations or engage in any subterfuge for the purpose of defeating or evading the provisions of this agreement.

(2) Negotiation. The Company will discuss matters of mutual interest to it and those of its employees who are members of the Union with such of the Union's officers or committees as these employees may designate from time to time as their representatives, always with the object of reaching a satisfactory understanding.

(3) Grievance Men and Industrial Relations Committees. The Union, for the purpose of effectively representing such of the Company's employees as are included in its membership, may appoint for each plant of the Company included in this agreement, and the Company will recognize and deal with (a) one or more members of the Local Union in each department of each plant to act as grievance men or sub-grievance men in the department for which appointed, and (b) an Industrial Relations Committee consisting in each instance of the President and Vice-President of the Local Union and four members of the Union selected by its membership. The Company, when provided with a list of the names of such grievance men or sub-grievance men and with a list of the officers of the Local Union, and members of the [fol. 504] Industrial Relations Committee, will cooperate with these men in order that they may properly perform their duties.

(4) Settlement of Grievances. Any grievance or misunderstanding involving wages, hours, or working conditions which any employee represented by the Union may desire to discuss and adjust with the Company shall be handled as follows:

(a) An employee or group of employees may deal directly with his or their own foreman or may report a complaint to the grievance man of his or their department, who shall investigate the complaint and then take it up, first, directly with the foreman. If the grievance does not receive proper attention, or is not properly adjusted by the foreman, the grievance shall be put in writing, and it shall then be taken up with the official of the Company directly in charge of that department.

(b) When a representative of the Company contacts an employee or group of employees, for the purpose of investigating and adjusting a complaint or grievance, the grievance man of that department must be present.

(c) Should the grievance man fail to secure satisfactory settlement, he shall report the matter in dispute directly to the President or Vice-President of the Local Union, depending upon which one has been designated by said Union to handle complaints in that particular plant.

(d) The President or Vice-President of the Local Union shall, upon receiving the complaint and after investigating the same, either take up the grievance or dispute directly with the Plant Superintendent or refer it to the Industrial Relations Committee for its consideration and disposition with the Plant Management.

(e) Representatives of the Company will meet with the Industrial Relations Committee of each plant once a month for the purpose of reaching a fair and impartial adjustment of all grievances and complaints of employees represented by such Committee, and the Company will not discriminate against any employee or committee man in handling or attempting to adjust complaints. Representatives of the Company will meet with any of the Industrial Relations Committees operating in the plants for the purpose of adjusting emergency grievances or complaints. The purpose of these meetings shall be to discuss and adjust, if possible, all general disputes or complaints but only such individual

complaints as may be referred to the Industrial Relations Committee by the department grievance man because of his inability to adjust the grievance through direct dealing with the foreman or superintendent of the department. Minutes shall be kept of all meetings between the Plant Management and the Industrial Relations Committee.

(f) The Plant Management will in all cases investigate complaints or suggestions and endeavor to make satisfactory adjustments promptly. In the event of failue to adjust any complaints or grievances, it shall be referred to the General President of the Union who shall take the matter up with the General Management of the Company.

(g) The General President of the Union or his representative and the President or Vice President of the Local Union shall have access to the plants during working hours in order to contact foremen, employees or members of the Industrial Relations Committee on matters pertaining to this agreement. Such visits to the plant must be prearranged with the Superintendent and conducted so as to avoid interference with the operation of any department. The Company may designate someone to accompany these representatives on such visits. The Company, through plant officials, will provide plant passes in such a manner that no representative of the Union shall be inconvenienced when he wishes to make such a visit. Such visits need not be confined to any certain part of the plant and may be extended to other departments, except experimental and research departments.

(h) In discussing complaints or grievances with the Management, the President or representative of the employee or the Industrial Relations Committee shall have the right to call in any employee from the department affected, if by so doing it may be possible better to explain conditions affecting the operations under discussion.

(i) Officers or representatives of the Local Union who are employees of the Company will be afforded time off from their work to assist in the work of the Industrial Relations Committee or executive affairs of the Union, as may be required, provided that arrangements for such time off shall first be made with the plant management to avoid inter- [fol. 505] ference with the plant operation. All conferences

between these representatives and the Plant Management which must be held at the plant during regular working hours shall be without loss of time to any employee.

(5) Seniority. (a) Departmental seniority and competency shall entitle employees to first consideration for promotion as opportunity shall offer and in the manner indicated by department promotion schedule. Inter-plant and inter-departmental seniority is not recognized, except as hereinafter provided. When a number of employees are considered as competent for promotion, seniority shall determine. In the reduction of forces and re-employment, seniority shall determine. If disagreement exists in any case of promotion, discharge, lay-offs or re-employment, the case may be handled as a formal complaint in the manner hereinbefore provided.

(b) Where an operation requires specially trained persons, they shall be employed, retained or rehired, when conditions demand, regardless of other factors involved.

(c) The seniority of any employee is determined by the length of his service, computed in years, months and days from the first date of his continuous employment. Time lost through sickness or temporary lay-off shall not be deducted from employees' seniority records.

(d) Temporary lay-offs caused by repairs shall not affect seniority standing. During an indefinite lay-off, seniority shall not accumulate, but an employee does not lose seniority already earned. When leave of absence is granted, an employee shall not lose his seniority rights. Leaves of absence shall be recorded in the employment records.

(e) Temporary employees shall not accumulate seniority, but if and when such temporary employees become regular employees they shall be given seniority credit for all time worked as temporary employees. Temporary employees include (1) new employees placed in a regular department, for a period of sixty (60) days, after which they will be classified as regular employees or be dismissed as having failed to qualify for the duties required of them; (2) new employees or old employees rehired to perform work that is definitely temporary, such as taking care of peak period bulges, construction work, or emergency work of any kind; (3) employees transferred, promoted or hired to take the

place of regular employees absent through illness, vacation or for any other reason when arrangements have been made with Management for such absence.

(f) Any employee, upon being laid off due to shut-downs or reduction of forces, may leave his address with the Employment Agent on a card provided for that purpose; and in the event of rehiring, such Employemnt Agent shall notify each such employee in his turn. Upon any employee's failure to report his intention of returning to work within a ten-day period thereafter, he shall lose his right of seniority. The Company will keep a record of these transactions. Service records and employment lists shall be open to inspection by the Local President or Vice-President of the Union.

(g) Employees who voluntarily quit or are discharged for cause shall be considered as new employees if again employed by the Company.

(h) Full seniority status shall be retained by employees while acting as full-time officers of the Union.

(6) Promotion Schedule. A mutually satisfactory promotion schedule shall be set up and posted in each department by the Management of the plant, showing the steps of promotion employees will follow providing they are qualified in accord with the foregoing paragraphs.

(7) Return to Former Job or Department. Any employee who is directed by the Company to be transferred from one job to another, or to another department, or is promoted, may resume his status quo with accumulated seniority in his former department or previous job, in the event of lay-off from such new job or failure to qualify in the new department or job.

(8) Departmental Transfers. Any employee wishing to transfer from one department to another may make application in writing to the employment office. The Company shall place the applicant on a list in accordance with his plant seniority. After the transfer is effected, an employee who is not satisfied may not return to his former department except at the bottom of the line of promotions.

(9) Lay-offs. In the case of lay-off or the voluntary quitting by an employee, three days' notice shall be given by

the Company or the employee, as the case may be. In [fol. 506] either of such cases the employee shall be paid in full within twenty-four (24) hours after the expiration of such three days' notice. It is understood that this paragraph does not apply to lay-offs caused by emergencies.

(10) Complaint Against Discharge or Suspension. The Company retains the right to select and discharge its employees. No employee shall be discharged or suspended without just cause, and any such employee shall, at the time of his suspension or discharge, be given the reason therefor in writing. If investigation proves that an injustice has been done, the Management will reinstate said employee and pay full compensation at employee's regular rate for the time lost. Any complaint under this paragraph must be filed with the Management within forty-eight (48) hours after suspension or discharge or the matter will be considered as closed, and the notice of discharge or suspension shall advise the employee of this fact.

(11) Employment at Other Plants. Employees laid off in any plant through reduction of force, desiring employment in other plants of the Company, may make application at such other plants in the regular manner and will receive consideration for any vacancy they may be qualified to fill before new employees are hired. This does not compel the Management of other plants to absorb these laid-off employees. The obligation of the Company to call back laid-off employees is confined to the plant in which they have been employed.

(12) Reemployment. Employment offices shall keep records of employees available for work in all departments, due to service with the Company or to outside experience. A card shall be kept of each employee setting forth his qualifications. When a vacancy occurs it shall be the duty of the person responsible for filling the vacancy to secure from the employment office a list of available applicants or candidates. The oldest employee in point of service shall have first consideration, but in the event this employee cannot qualify, he shall be notified of the reason for his not being placed on the job.

(13) Recall of Employees. The Company will not call an employee to work when no work is available except in a situation beyond its control, such as cancellation of orders

or break-down or other situations for which it could not be fairly blamed. The Company assumes no responsibility for individuals voluntarily appearing in the hope that work may be available. When an employee is ordered to report for work and does report and there is no work available, the employee shall receive three hours' pay at employee's regular rate.

(14) Wages. (a) An increase of eight (8) cents per hour shall be added to all wage rates as of October 24, 1936, effective on the date of the signing of this agreement.

(b) When rates as agreed upon shall be on file at the employment office of each plant and shall remain undisturbed for the life of this agreement except when a change in method of operation shall require a change in rate. In that event, the matter will be discussed with the Industrial Relations Committee and other representatives in the plant or department affected and a mutually satisfactory adjustment reached.

(c) Should there come about during the life of this agreement a radical change in currency values such as would make necessary a material readjustment in the National currency, the wage schedule may be taken up for discussion as an emergency matter.

(d) Wages shall be paid semi-monthly and shall be exempt from any deduction other than as required by law. When pay day falls on Saturday, Sunday or holidays, the employees will be paid the day previous.

(e) Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

(15) Incentive System. The Company will cooperate with its employees and their representatives in bringing about a better understanding of the working of the bonus or incentive system and will consider suggestions that might improve such system. Bonus rates and values will be posted at all times and earnings will be posted as promptly as possible after the work is performed. Changes in bonus rates will be discussed by Company representatives with members of the Industrial Relations Committee operating in the plant affected, when there is any complaint as to their

correctness or equity. The Company will guarantee "base rates" under the incentive systems.

[fol. 507] (16) Rate on Other than Regular Work. Employees taken from their regular work to perform temporarily other duties paying a lower rate of pay shall receive their regular rate, or average earnings if working on incentive. Employees assigned to work paying a higher rate of pay shall receive the higher rate. Employees taking work when their regular work is not available shall receive the rate for the work to which they are assigned.

(17) Rate on Repair Work. When cold repairs, or any work sometimes done by contract, is done by the Company with its own employees, no wage rate shall be paid that is lower than the minimum plant rate for the type of work performed.

(18) Commission on Rate Differentials. (a) It is agreed that a commission of five (5) shall be appointed who shall make a study of the differentials in rates alleged to exist between the Libby-Owens-Ford Glass Co. and the Pittsburgh Plate Glass Co. for jobs of a similar nature and this Commission shall make a joint report of its findings to the Pittsburgh Plate Glass Co. and the Union prior to the expiration of the present agreement, said findings to be used at the next general wage conference as a basis for adjustment of said alleged differentials.

(b) Two members of this Commission shall be selected by the Union and two by the Pittsburgh Plate Glass Co. and they in turn shall request the services of a Commissioner of Conciliation of the U. S. Department of Labor to act as fifth member of said Commission and also be the Impartial Chairman thereof. It is understood that the two representatives of the Union shall be from the plate glass plants when rates for such plants are being studied, from the laminated glass plants when rates for such plants are being studied and from the window glass plants when rates for such plants are being studied.

(c) The expense of this Commission shall be borne equally by the parties involved, the Company and the Union paying the salary and expense of its own representatives and each paying one-half of such other incidental expense as may be incurred and the compensation and expense of the Government representative if necessary.

(19) Hours and Overtime. A normal work week shall be thirty-six (36) hours. No employee, except as herein otherwise provided, will be required to work more than forty-two (42) hours nor more than six (6) days in any seven (7) day period, nor more than eight (8) hours in any twenty-four (24) hour period without the payment of overtime. Employees working hours in excess of the normal day will not be required to take time off to keep within the forty-two (42) hour week. Overtime shall be compensated at one and one-half (1½) times the normal rate of pay. The exceptions above mentioned are:

Exception 1. In continuous processes, a normal week shall be forty-two (42) hours consisting of six-hour shifts. Employees may be required to work one additional shift, without the payment of overtime, due to rotation of shifts. When a majority of the employees in any department of a continuous operation express a desire, in writing, for one day off in each seven (7) days, the Company will add the necessary employees to make this possible.

Exception 2. To provide for emergency relief where employees work on shifts that operate twenty-four (24) hours and an employee fails to report for work on his regular shift or is unable to remain at work, then either an employee on the preceding or following shift may be required to work hours in excess of six (6) hours in twenty-four (24) or forty-two (42) hours in a week, provided that time-and-one-half (1½) is paid for all hours in excess of eight (8) hours in twenty-four (24).

Exception 3. Owing to the unusual requirements of furnace operation, the normal work day of melters and finishers at Works No. 4 and of employees in the continuous departments at Works No. 6 may be increased to eight (8) hours providing the maximum hours per week do not exceed forty-two (42).

Exception 4. Employees engaged in maintenance or repairs shall not be limited as to hours per day or days per week, but shall be compensated at one and one-half (1½) times normal rate of pay for time in excess of eight (8) hours in any twenty-four (24) hour period or forty-two (42) hours in any sevent (7) day period.

Exception 5. During peak periods in the automotive industry, in plate and safety glass plants affected, for a

period of seven consecutive weeks in each twenty-six (26) [fol. 508] weeks, a maximum of forty-eight (48) hours may be required without the payment of overtime. When the provisions of this exception are to be put into effect, the need for the same will be explained.

Exception 6. For occupations not covered by the above, present practice shall continue.

(20) Rotation of Shifts. Where employees work on shifts, there shall be rotation thereof each calendar week.

(21) Return of Tools on Company Time. Employees engaged in work where tools are taken from department tool rooms shall be allowed sufficient time to return tools or equipment at the end of the shift on Company time.

(22) Holidays. (a) Sundays, Christmas Day, Fourth of July, Labor Day, Decoration Day, and Thanksgiving Day, are regarded as holidays and, except in the continuous processes of the industry and for such repairs as are essential to factory operation, work will be avoided. Overtime will not be paid for these holidays for work required in the continuous processes or for repairs of emergency nature essential to factory operation. If, however, emergencies arise where work on Sundays or any of these holidays is required to fill emergency orders for glass or to avoid the hiring of temporary employees during any rush season, it is agreed that Sunday and holiday work may be carried on, provided overtime is paid on such Sundays and holidays for this emergency work in getting out glass orders.

(b) The term "continuous processes of the industry" as used herein is defined to mean and include the operations of mixing and melting the raw materials, withdrawing the molten glass from the tank or furnaces, forming the same into sheets or plates and annealing same and delivering such sheets or plates to those places or sections of the plant where they will subsequently be handled and worked or stored, and also the heat, light, power and water producing operations necessarily incident to such continuous operations, and also the pothouse drier and pot hauler and rouge burning operations.

(23) Distribution of Work. All available work shall be equally divided among the regular employees of any department. Regular employees shall be considered to be those

working in a department in excess of six months. In the event that an equal distribution of available work shall result in such employees' receiving less work than twenty-four (24) hours per week, a reduction of forces shall be made in order that the remaining employees shall receive such minimum number of hours of work per week. This provision may be waived for any department upon the written request of the Local Union.

(24) Hours in Supervisory Positions. Employees in supervisory positions shall not be required to work hours in excess of those provided at work ordinarily performed by regular employees whose hours are governed by regulation.

(25) Safety and Health. The Company will make reasonable provisions for the safety and health of its employees at the plant during the hours of their employment. Protective devices, wearing apparel and other equipment necessary to properly protect employees from injury shall be provided by the Company without cost to employees. Proper heating and ventilating systems shall be installed where needed.

(26) Number of Employees on an Operation. The Company does not recognize the right of its employees to dictate or declare that any certain number of employees shall be maintained in connection with any of its various operations. Consideration shall be given to the possibility that increased production or speed of operation may possibly impose undue hardship on employees. When such changes are to be made, the Industrial Relations Committee shall be notified. In case it is felt that a hardship is being imposed by such change, and after investigation with the Committee it is found that additional help is needed, it shall be added. Additional help may be added, if deemed necessary, while an investigation is being made.

(27) Rest and Lunch Periods. (a) Reasonable relief periods shall be provided for all employees working in occupations or positions where they cannot leave their stations unless relieved by someone else.

(b) A fifteen (15) minute rest period will be provided for female employees where uninterrupted work exceeds four hours.

[fol. 509] (c) Wherever possible and consistent with the type of work involved, lunch periods of uniform character and duration shall be provided in each department. Employees shall not be required to remain on duty in their department or to perform work during the lunch period unless they are paid for the full period at their regular rate.

(28) Physical Examinations. (a) Due to laws imposing compensation insurance upon industry, and because of the Company's policy which provides group life and health and accident insurance, all new employees must pass a physical examination.

(b) Physical examination of employees or groups of employees shall be made from time to time, and should such examination disclose that a transfer to another department would be beneficial from a health standpoint, the employee shall be consulted and the transfer made. A transfer for this reason is not to be considered a violation of the promotion schedule. Employees may obtain, upon request, copies of the reports of their physical examination.

(c) The physical examination of employees following lay-off and sickness shall not be used as a guise to discriminate against any employee. If any employee feels that he has been discriminated against as a result of an examination, the case shall be reviewed by the Company and the Industrial Relations Committee in the manner hereinbefore set forth.

(29) Bulletin Boards. The Company will put up bulletin boards for the posting of notices pertaining to the Union and its members wherever the Company bulletin boards are inadequate or insufficient for the purpose. All notices are to be submitted to the Plant Superintendent, or someone designated by him, for approval before being posted. The Management will not delay in passing judgment on notices.

(30) Strikes. The Union agrees that no strike shall be called in any plant governed by this agreement until the General President of the Union has been furnished with a full statement of circumstances by members of the plant or department, and he has conferred or offered to confer with the proper officials of the Company to determine whether the grievance is a violation of this agreement.

(31) Termination. The foregoing constitutes an agreement between the Pittsburgh Plate Glass Company and those of its employees who are members of the Federation of Flat Glass Workers of America at the plants enumerated in the first paragraph of this agreement, and is to become effective immediately and continue in full force (unless changed or modified by mutual consent) until the date agreed upon in the supplemental agreement attached hereto.

Signed and accepted this 20th day of January, 1937, by
Pittsburgh Plate Glass Company
By R. L. Clause, Vice President.
Attest:
Fred Keightley,
Director of Labor Relations.
J. A. Wilson,
General Supt., Plate Glass Division.
Lee Showers,
General Supt., Window Glass Division.

Federation of Flat Glass Workers of America
By (Signed) Glen W. McCabe, President.
Lilburn P. Jay, Vice President.
Irwin L. DeShetler, Secretary-Treasurer.
James E. Witchell,
James A. Ewing,
George S. Hawdon,
Otto Hanovsky,
B. W. Perkins,
Harry W. Jay,
Eugene Watts,
Joseph Froesch,
Daniel G. Fry,
Robert McVay,
Jacob Heinrichs,
Roy E. Pippin,
Wage Committee.

[fols. 510-511] Supplemental Agreement

The Federation of Flat Glass Workers of America, the Libbey-Owens-Ford Glass Company, and the Pittsburgh Plate Glass Company do hereby agree that their respective agreements made this year shall continue in effect until

February 1, 1938, and thereafter from year to year, automatically renewing themselves unless terminated as hereinafter provided.

Should any interested party desire to discontinue or modify the existing agreements upon any termination date, thirty (30) days' prior written notice of such intent must be given to the other parties hereto. In the event of notice of cancellation or modification of the agreements, it shall be the duty of all interested parties to meet in joint conference not less than fifteen (15) days prior to the expiration date of said agreements for the purpose of negotiating new or modified agreements.

It is further agreed that proposed changes or new agreements shall be presented not later than the first day of the conference by the party serving notice.

Pittsburgh Plate Glass Company
By R. L. Clause, Vice President.
Libbey-Owens-Ford Glass Company
By D. H. Goodwillie, Executive Vice President.
Federation of Flat Glass Workers of America.
By Glen W. McCabe, President.

[fol. 512] BOARD EXHIBIT 3-C

BEFORE NATIONAL LABOR RELATIONS BOARD

Case No. VI-R-91

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with the C. I. O.

STIPULATION TO CORRECT THE RECORD

It is hereby stipulated this 12th day of November, 1938, between the attorney for the National Labor Relations Board, the attorneys for the Pittsburgh Plate Glass Company, the attorney for the Federation of Flat Glass Workers of America, and the attorney for Crystal City Glass Workers Union that the record in this proceeding, at the pages and lines hereinafter noted, shall be corrected to read as follows:

Volume 1

Page	Lines	
1	18-20	"Smith, Buchanan & Ingersoll, by John G. Buchanan and William J. Kyle, Jr., Union Trust Building, Pittsburgh, Pa., and J. Wesley McAfee, St. Louis, Missouri, appearing for the Respondent."
3	20	"and Courts in this vicinity. If there is any reason for any"
4	5	"the hearsay rule, and also sometimes to the laying of the"
7	6	"so that if they saw fit they could appear for intervening."
7	24	"these four words: 'All production and maintenance employees'"
9	22	"connection I point out that they are named in the petition May"
10	1	"Labor Board, they are considered a party to the proceedings,"
11	13	"the Crystal City Glass Workers Union at this time I waive"
[fol. 513]		
12	1	"Mr. Holmes: Of course on behalf of the Plate Glass"
16	14	"(Paper handed to Mr. Buchanan by Mr. Holmes.)"
17	5	"interstate shipments, inbound and outbound to and from the domestic"
17	22	"Petitioner proceeds."
20	22	"Mr. Buchanan: In spite of your Honor's statement I am"
28	1	"give their names, including the spelling of the names. I have"
29	19	"A General production of plate and window glass."
49	15	"A. No, sir. Ask me that last question again. You asked me"
54	22	"Creighton, and we have one tank which was recently acquired"
57	22	"Q. Each superintendent for his own particular plant?"

Page	Lines	
59	5	"Q. In the matter of seniority, if an employee should be trans-"
61	10	"of the employees have worked there through their lives, and died"
65	22	"same amount of pay as at the other plants?"
71	22	"one employee who is a son—well, it couldn't be,—we have"
77	19-20	"of the plants it was to cover, but we returned the contracts which included Crystal City."
82	7	"Q. Was there any claim made at this time that the agreement"
85	12	"Q. Tell me this: How are orders obtained? By salesmen"
91	15	"Q. Now, the safety glass operation, where does it get its"
91	25	"Q. Do the window glass plants service any other of your plants"
93	19	"City sent to the Crystal City plant for it to make its Duplate"
[fol. 514]		
97	19	"Q. Of the one-eighth inch glass at Crystal City, is there"
100	21	"planing, and if it is maintained at a proper temperature,"
106	7	"A. He can answer these questions of skill a good bit"
106	16	"hour men and most of these people have skill in what they do."
106	20	"A. Ford City, it employs pot furnaces for the operation"
107	25	"produces a sheet that is only seventy-four inches wide"
112	15	"I don't know. Felt we use in quite large quantities; there"
126	23	"Q. And if he doesn't want to do it, what then?"
128	22	"just cumber the record. I don't think it has anything to do"
130	14-15	"for some reason called for the payroll as of February 1st. I asked for some information to be collected as of that"

Page	Lines	
130	23-24	"Q. Production and maintenance employees other than supervisory and clerical employees?"
154	22	"A. A payroll for Works No. 10 at Henryetta for December 8th."
154	23	"Mr. Kleeb: I offer Board's Exhibits Nos. 4-A, 4-B, 4-C"
156	25	"September 30, 1938, payroll, I would like a little explanation, if"
157	6	"Q. So that to have made up another payroll for December,"
157	10	"payroll of the Creighton plant for April fourth, 1938; is that"
170	16	"Q. And April 4th is 467?"

Volume II

173-A	6	"E. J. Fallert"
179	25	"A. Mt. Vernon, Clarksburg and Henryetta, Oklahoma."
[fol. 515]		
189	23	"Assuming that you acted down there at the present time?"
198	23	"Glass Workers accepted from the American Federation of Labor,"
200	1	"There is no such thing as only one union of employees"
204	19	"an incorporation, or just what kind of a legal set-up do you have?"
216	23	"Mr. Buchanan: Are you contending, then, that the records"
219	23	"aforesaid in the Company's plant at Crystal City, Missouri."
222	19	"to prove a central labor policy?"
225	21	"one of the fellows from De Soto, Missouri, stating that they"
227	1	"plant at Crystal City came to the meeting, and Mr. Balsiger,"
227	4	"Oakes and Mr. Balsiger that they had sent word through the"
228	12	"Mr. Balsiger did most of the talking, and of course he was"

Page	Lines	
229	23	"The Witness: Mr. Balsiger said that from this confer-"
230	6	"The Witness: That's what Mr. Balsiger said."
230	17	' "Well, you can stay here. I think Mr. Balsiger and I would' "
231	7	"A. I was approached by Fred Fitzgerald, another Company"
231	14	"I move that the remarks of the witness, which are not answering"
235	15-16	"Mr. Buchanan: No, Mr. Holmes asked if the people in the town were more intelligent than Henryetta, a much"
236	6	"groups of glass workers that I have come in contact with."
243	12	"think Judge Hoffmeister will bring out that he got it from"
243	15	"Trial Examiner Dudley: Judge Hoffmeister asked how he"
248	8	"Mr. Hoffmeister: I join in the motion."
[fol. 516]		
248	12	"Mr. Buchanan: I call for the production of the records"
251	2-4	"Before this recess, Mr. Buchanan made a demand for the membership cards of the Federation of Flat Glass Workers Union, of the employees at the Crystal City plant."
252	12	"the motion of the Petitioner being granted provided the"
254	2-4	"my client of the benefit which is necessary to any fair hearing, of cross examination of testimony introduced on an issue to which it is a party, but I may say this, that my client"
254	8	"by a name has paid to the union, whether he has paid to the"
255	24	"we talk about the best evidence, the dues record is the only"
257	25	"for a union to expect certification on a particular plant or"

Page	Lines	
259	5	"Mr. Holmes: We rest——"
259	6	"Trial Examiner Dudley: You rest your case?"
261	9-11	"E. J. Fallert a witness called by and on behalf of the Pittsburgh Plate Glass Company, being first duly sworn, was examined and testified"
261	14	"Q (By Mr. McAfee): Will you state your full name?"
261	15	"A. E. J. Fallert."
262	2	"Q. Mr. Fallert, there was introduced as an exhibit here yes-"
262	22	"Q. Now, Mr. Fallert, you may have heard yesterday some refer-"
262	25	"30th, 1938, showed a larger number employed throughout than some"
264	9-11	"A. Among them was the Casting Hall, Pot House, Tuile House, Batch House, and the other buildings that we termed as the No. 2 Boiler House, which was being used as a dressing room, and so on,"
266	10	"Q. (By Mr. Hoffmeister): Mr. Fallert, how long have you been"
[fol. 517]		
266	16	"For about two years—immediately prior to that time."
269	1	"plant, Mr. Fallert, any strikes?"
286	4	"either in Crystal City or in Festus, that you have scrip"
287	6	"Q. (By Mr. McAfee): Now, Mr. Fallert, so that there will"
287	8	"spoke of a few minutes ago, as the rate book, be identified"
287	12	"Q. Now, Mr. Fallert, does this book which has been marked"
288	8	"Q. Mr. Fallert, when questions arise, of either decrease"
294	4	"Mr. Buchanan: That is all. Mr. Kleeb: Mr. Examiner, this is"
294	7	Delete entire line.

Page	Lines	
294	8-9	"Q. (By Mr. Kleeb): Mr. Clause, the terminology throughout this record about excluding the glass cutters has been excluding the"
294	11	"glass plants of your company."
295	10-11	"Q. Are you acquainted with the plants of the Pittsburgh Plate Glass Company that make plate glass and safety glass"
296	16	"A. I would not have this card in my pocket if I had."
297	7	"Mr. Buchanan: Yes, the testimony of an expert"
297	9	"Trial Examiner Dudley: No. Mr. Buchanan: Examination of"
297	23	"Department of Labor as conciliator for 12 years, lacking"
300	2	"In Henryetta, there is a background of organization there"
300	22	"Is the community surrounding any of the plants where the"
301	4	"Plate Glass Workers? Is the neighborhood of any"
311	1	"A. It is a pro forma decree corporation, incorporated under"
314	24	"Mr. Hoffmeister: I think I would like to except to the"
[fol. 518]		
315	4	"denies the petitioners the rights guaranteed to them under"
315	6	"9-A, 9-B and 9-C thereof."
315	7	"Third, that the ruling is contrary to the provisions of"
316	7	"had an opportunity to be heard or object thereto, and amounts to"
324	12	"A. Between 450 and 500."
331	4-5	"cross-examine the persons who are attempting to make themselves witnesses at long range and free from the risk of"
341	24-25	"A. Well, in the Country Club I was Secretary of that organization and helped with the Soft Ball League."

Page	Lines	
343	22	"Q. And did they go back?"

(Signed) Robert H. Kleeb, Attorney for National Labor Relations Board.

(Signed) Smith, Buchanan & Ingersoll.

(Signed) Igor Carroll Keefe & McAfee, Attorneys for Pittsburgh Plate Glass Company, by J. E. Carroll.

(Signed) H. B. Holmes & W. T. Lewis, Attorney for Federation of Flat Glass Workers of America.

(Signed) Fred J. Hoffmeister, Attorney for Crystal City Glass Workers Union.

[fol. 519] RESPONDENT'S EXHIBIT 1

BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of PITTSBURGH PLATE GLASS COMPANY, WORKS NO. 9 and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C. I. O.

Case No. C-778.—Decided September 22, 1938

Glass Manufacturing Industry—Settlement: stipulation providing for withdrawal of recognition from "inside" union, reinstatement for one employee with back pay—Order: entered on stipulation—Discrimination: charges of, dismissed without prejudice as to five persons.

Mr. Alan Perl and Mr. Bernard Bralove, for the Board.

Igoe, Carroll, Keefe, & McAfee, by Mr. James E. Carroll and Mr. J. Wesley McAfee, of St. Louis, Mo., for the respondent.

Mr. Robert McVay, of Crystal City, Mo., for the Federation.

Mr. Abraham J. Harris, of counsel to the Board.

DECISION AND ORDER

Statement of the Case

Charges and amended charges having been filed on February 2, February 26, June 4, and June 15, 1938, by

Federation of Flat Glass Workers of America, affiliated with C. I. O., herein called the Federation, the National Labor Relations Board, herein called the Board, by Dorothea de Schweinitz, Regional Director for the Fourteenth Region (St. Louis, Missouri), issued and duly served its complaint dated June 17, 1938, against Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, herein called the respondent, Works No. 9 plant, Crystal City, Missouri, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. In substance, the complaint alleged that the respondent dominated and interfered with the formation and administration of the Employee Representation Plan and of the Crystal City Glass Workers' Union, herein called the Crystal City Union, that it interfered with, restrained, and coerced its employees in the exercise of their right to self-organization, and that it dis- [fol. 520] criminated in regard to the hire and tenure of employment of Stephan Bachek, Edmund Thomas, Paul J. Mueller, Edward Kuhlmann, Benjamin Brooks, and Bernard J. Pratt and thereby discouraged membership in the Federation.

On June 28, 1938, the respondent filed its answer to the complaint denying all the material allegations thereof. The respondent on the same date also filed motions to strike, to make more definite and certain, and to furnish particulars.

On April 4 and May 13, 1938, the Federation filed, with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania), a petition and amended petition, respectively, for an investigation and certification of representatives of the employees of the respondent, pursuant to Section 9 (c) of the Act. On May 26, 1938, the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice. On the same date, pursuant to Article III, Section 10 (c) (2), and Article II, Section 37 (b), of the Rules and Regulations, the Board issued an order consolidating the complaint case and the representation case for the purposes

of hearing. On July 21, 1938, the Board ordered the two cases severed.

Pursuant to a notice of hearing and notice of postponement thereof, a hearing was held in Crystal City, Missouri, on July 18, 20, and 22, 1938, before Joseph L. Maguire, the Trial Examiner duly designated by the Board. The Board and the respondent were represented by counsel. The Federation was represented by an authorized representative.

On July 22, 1938, counsel for the Board, the respondent, and the Federation entered into the following stipulation:

Stipulation

It is hereby stipulated by and between the Pittsburgh Plate Glass Company, Respondent herein, Federation of Flat Glass Workers of America, the party hereto, and the National Labor Relations Board that:

I. Upon charges duly filed by the Federation of Flat Glass Workers of America, affiliated with the Committee for Industrial Organization, the National Labor Relations Board by the Regional Director for the Fourteenth Region, acting pursuant to authority granted in Section 10 (b) of the National Labor Relations Act (49 Stat. 449) and its Rules and Regulations, Series 1, Article 4, Section 1 issued its Complaint on the 17th day of June, 1938, against the Pittsburgh Plate Glass Company, Works No. 9, respondent herein.

[fol. 521] II. The Respondent is and has been since November 3, 1920, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and is the successor to a company of the same name organized and incorporated under the laws of the Commonwealth of Pennsylvania, August 24, 1908, having its principal office in Pittsburgh, Commonwealth of Pennsylvania, and is now and has continuously been engaged in the manufacture, sale and distribution of many types of glass.

III. The Respondent owns, operates and maintains plants engaged in the manufacture of glass in the following cities: Creighton, Pennsylvania; Ford City, Pennsylvania; Clarksburg, West Virginia; Mount Vernon, Ohio; Henryetta, Oklahoma; Crystal City, Missouri; and Courcelles, Belgium.

IV. The Respondent owns, operates and maintains warehouses for the purpose of shipping and distributing the products manufactured by it in seventy principal cities in the United States.

V. The Respondent also owns, operates and maintains refractories, mines, quarries and research laboratories used in connection with the manufacture, sale and distribution of its products set forth in Paragraph II above located in several states of the United States.

VI. The Respondent, in the course and conduct of its business as set forth in Paragraph II above, owns, operates and maintains a plant in Crystal City, State of Missouri, known as Works 9, hereinafter referred to as Works 9, engaged in the manufacture and distribution of laminated and herculite glass for automobiles, and plate glass.

VII. The Respondent, in the course and conduct of its operations at Works 9, causes and has continuously caused for a long period of time approximately 10% of the raw and other materials used in the manufacture of its product made at such plant to be purchased and transported in interstate commerce from and through states of the United States other that the State of Missouri, and causes and has continuously caused approximately 90% of the glass and other products manufactured by it at Works 9 to be sold and transported into and through states of the United States other than the State of Missouri. The total volume in square feet of shipments of finished products for the year 1937 from Works 9 amount to approximately 20,000,000 square feet.

VIII. The Respondent, Pittsburgh Plate Glass Company, Works 9, is engaged in interstate commerce within the meaning of the National Labor Relations Act.

[fol. 522] IX. The Respondent, in the normal course and conduct of its business at the Works 9 plant, employs approximately 1500 employees who are engaged in production.

X. The Federation of Flat Glass Workers of America, Local #63, affiliated with the C. I. O., is a labor organization admitting to its membership employees of the Respondent.

XI. Crystal City Glass Workers' Union is an unaffiliated labor organization admitting to its membership employees of the Respondent.

XII. The Respondent waives its right to a Hearing as set forth in Sections 10 (b) and 10 (c) of the National Labor Relations Act.

XIII. This Stipulation, together with the Charge, Amended Charge, Complaint, Notice of Hearing, and Respondent's Answer, may be filed with the Trial Examiner of the National Labor Relations Board at Crystal City, Missouri, and when so filed, shall constitute the record in this case.

XIV. Upon this Stipulation, if approved by the National Labor Relations Board, an Order may forthwith be entered by said Board, providing as follows:

1. The Respondent, its officers, agents, successors and assigns will forthwith cease and desist from such unfair labor practices as have occurred in the past.

2. In addition thereto, the Respondent, its officers, agents, successors, and assigns, will, from and after the date hereof, cease and desist from:

(a) In any manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed under Section 7 of the National Labor Relations Act.

(b) Disseminating in the "Glass Ray," a magazine published by the Respondent, or through any other medium, articles discrediting the Federation of Flat Glass Workers of America, Local #63, affiliated with the C. I. O., its officers or purposes, or discrediting the officers or purposes of any other labor organization.

(c) Discouraging membership in the Federation of Flat Glass Workers of America, Local #63, or any other labor organization of its employees by discriminating in regard to hire or tenure of employment or any term or condition of employment.

[fol. 523] (d) Keeping surveillance over the labor organizational activities of its employees.

(e) Disseminating, circulating, sponsoring and publicizing, orally or in writing, statements discrediting the principles of labor organization.

(f) Initiating and fostering activities on the part of the citizens and public officials of Crystal City and the adjacent city of Festus, Missouri, against organizational efforts of the Federation of Flat Glass Workers of America, Local #63, or any labor organization.

(g) In any manner dominating or interfering with the administration of the Crystal City Glass Workers' Union, or any other organization of its employees, or contributing aid or support to said organization, or any other labor organization of its employees; from recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization, or any person or group of persons purporting to represent said organization.

3. The Respondent, its officers, agents, successors and assigns, will forthwith take the following affirmative action to effectuate the policies of the Act:

(a) Withdraw all recognition from the Crystal City Glass Workers' Union as the representative of the Respondent's employees, or any of them, as a labor organization, and notify said organization to that effect.

(b) Post notices on all bulletin boards about its plant at Crystal City, Missouri, for a period of not less than thirty days, stating:

(1) That the Respondent will cease and desist as aforesaid.

(2) That recognition has been withdrawn from the Crystal City Glass Workers' Union as aforesaid.

(c) Inform the officials and agents, including superintendents and other supervisory employees, that they shall not in any manner threaten the Respondent's employees because of their membership in any labor organization, or approach said employees and discuss with them the question of their labor affiliation.

(d) Offer Stephan Bachek immediate and full reinstatement to his former position, without prejudice to his seniority and other rights and privileges.

(e) Make whole Stephan Bachek for any loss of earning he has suffered by reason of his discharge, by payment to him, of a sum of money equal to that which he would normally have earned from the date of his discharge to the date of said offer of reinstatement, less any amounts he has earned during that period.

[fol. 524] XV. It is stipulated and agreed that any Circuit Court of Appeals of the United States may, upon application by the National Labor Relations Board, enter its decree enforcing the order of the Board in the form above set out. The Respondent waives its right to contest the entry of any such decree and its right to receive notice of the filing of an application for the entry of such decree, in the form above set forth.

On July 29, 1938, the Board approved said stipulation and acting pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the proceedings in the case transferred to and continued before the Board.

Upon the stipulation and the entire record in the case, the Board makes the following:

Findings of Fact

I. The Business of the Respondent

The respondent, Pittsburgh Plate Glass Company, is a corporation organized under the laws of the State of Pennsylvania with its principal office in Pittsburgh, Pennsylvania. The respondent is engaged in the manufacture, sale, and distribution of many types of glass. It owns, operates, and maintains plants engaged in the manufacture of glass in the States of Pennsylvania, West Virginia, Ohio, Oklahoma, and Missouri, and in Belgium. It owns, operates, and maintains warehouses for the purpose of shipping and distributing the products manufactured by it in 70 principal cities in the United States. One of the plants operated by the respondent is located in Crystal City, Missouri, known as Works No. 9, the plant herein involved, in which plant the respondent is engaged in the

manufacture and distribution of laminated and herculite glass for automobiles, and plate glass. Approximately 10 per cent of the raw materials used in the manufacture of the respondent's products at Works No. 9 is purchased and obtained by it outside the State of Missouri. Approximately 90 per cent of the products of Works No. 9 are sold by the respondent and transported to States other than the State of Missouri. In 1937, there were shipped from Works No. 9 approximately 20,000,000 square feet of the respondent's finished products.

We find that the operations of the respondent at Works No. 9, Crystal City, Missouri, constitute trade, traffic, and commerce among the several States.

[fol. 525] II. The Organizations Involved

The Federation of Flat Glass Workers of America, Local No. 63,[1] affiliated with C. I. O., is a labor organization admitting to its membership employees of the respondent.

Crystal City Glass Workers' Union is an unaffiliated labor organization admitting to its membership employees of the respondent.

Order

Upon the basis of the above findings of fact and stipulation, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, and its officers, agents, successors, and assigns, shall:

1. Cease and desist:

(a) From such unfair labor practices as have occurred in the past;

(b) From in any manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the pur-

[1] The charge was filed by Federation of Flat Glass Workers of America affiliated with C. I. O. It is apparent from the stipulation that at the Works No. 9 plant the Federation maintains its Local No. 63.

poses of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act;

(c) From disseminating in the "Glass Ray," a magazine published by the respondent, or through any other medium, articles discrediting the Federation of Flat Glass Workers of America, Local No. 63 affiliated with the C. I. O., its officers or purposes, or discrediting the officers or purposes of any other labor organization;

(d) From discouraging membership in the Federation of Flat Glass Workers of America, Local No. 63, or any other labor organization of its employees by discriminating in regard to hire or tenure of employment or any term or condition of employment;

(e) From keeping surveillance over the labor organizational activities of its employees;

(f) From disseminating, circulating, sponsoring, and publicizing, orally or in writing, statements discrediting the principles of labor organization;

(g) From initiating and fostering activities on the part of the citizens and public officials of Crystal City and the [fol. 526] adjacent city of Festus, Missouri, against organizational efforts of the Federation of Flat Glass Workers of America, Local No. 63, or any labor organization;

(h) From in any manner dominating or interfering with the administration of the Crystal City Glass Workers' Union or any other organization of its employees, or contributing aid or support to said organization, or any other labor organization of its employees; from recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization, or any person or group of persons purporting to represent said organization.

2. Take the following affirmative action which the Board finds will effectuate the policy of the Act:

(a) Withdraw all recognition from the Crystal City Glass Workers' Union as the representative of the respondent's employees, or any of them, as a labor organization, and notify said organization to that effect;

(b) Post notices on all bulletin boards about its plant at Crystal City, Missouri, for a period of not less than thirty (30) days, stating: (1) that the respondent will cease and desist as aforesaid, and (2) that recognition has been withdrawn from the Crystal City Glass Workers' Union as aforesaid;

(c) Inform its officials and agents, including superintendents and other supervisory employees, that they shall not in any manner threaten the respondent's employees because of their membership in any labor organization, or approach said employees and discuss with them the question of their labor affiliation;

(d) Offer Stephan Bachek immediate and full reinstatement to his former position, without prejudice to his seniority and other rights and privileges;

(e) Make whole Stephan Bachek for any loss of earnings he has suffered by reason of his discharge, by payment to him of a sum of money equal to that which he would normally have earned from the date of his discharge to the date of said offer of reinstatement, less any amounts he has earned during that period.

It is further ordered that the complaint as to Edmund Thomas, Paul J. Mueller, Edward Kuhlmann, Benjamin Brooks, and Bernard J. Pratt be and it hereby is dismissed without prejudice.

Mr. Donald Wakefield Smith took no part in the consideration of the above Decision and Order.

[fol. 527] **Board Exhibit 3-b**

BOARD EXHIBIT No. 1-A

BEFORE THE NATIONAL LABOR RELATIONS BOARD, SIXTH REGION

Case No. VI-R-91

[Title omitted]

NOTICE OF HEARING

On April 4, 1938, there was filed with the National Labor Relations Board, Sixth Region, a petition by the Federation of Flat Glass Workers of America, affiliated with the C. I. O.,

and on May 13, 1938, an amended petition was filed with the National Labor Relations Board, Sixth Region, by the Federation of Flat Glass Workers of America, affiliated with the C. I. O., alleging that a question affecting commerce has arisen concerning the representation of the employees of the Pittsburgh Plate Glass Company, hereinafter called the Company, at its Creighton, Penna., Ford City, Penna., Crystal City, Mo., Clarksburg, W. Va., Mt. Vernon, Ohio, and Henryetta, Okla., plants, said Company being engaged in the manufacture of plate, safety and window glass, and requesting that pursuant to authority granted in Section 9 (c) of the National Labor Relations Act, the National Labor Relations Board investigate such controversy and certify the name or names of the representatives which have been designated or selected by said employees.

Copies of said petition and amended petition are attached hereto.

It appearing to the National Labor Relations Board that a question affecting commerce has arisen concerning the representation of employees of said Company at its Creighton, Penna., Ford City, Penna., Crystal City, Mo., Clarks-
[fol. 528] burg, W. Va., Mt. Vernon, Ohio, and Henryetta, Okla., plants.

You are Hereby Notified That, pursuant to Section 9 (c) of the National Labor Relations Act, on the 13th day of October, 1938, at 10:00 o'clock in the forenoon, E. S. T., in Court Room No. 4, Sixth Floor, New Federal Building, Pittsburgh, Pennsylvania, a hearing will be conducted before the National Labor Relations Board, by a Trial Examiner to be designated by it in accordance with its Rules and Regulations, Series 1, Article IV, and Article III, Section 5, upon the question of representation affecting commerce which has arisen, at which time and place you shall have the right to appear, in person or otherwise, and give testimony.

Enclosed herewith for your information is a copy of Rules and Regulations, Series 1, as amended, made and published by the National Labor Relations Board pursuant to authority granted it in the National Labor Relations Act. Your attention is particularly directed to Article III of said Rules and Regulations.

In Witness Whereof the National Labor Relations Board has caused this, its Notice of Hearing, to be signed by the Regional Director for the Sixth Region on the 27th day of September, 1938.

(s.) Charles T. Douds, Regional Director.

(Here follow 2 photolithographs, side folios 529-530)

N. L. R. B. No. 66
Revised 7-11-39
COPY

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Sixth REGION

In the matter of—

PITTSBURGH PLATE GLASS COMPANY

and

FEDERATION OF FLAT GLASS WORKERS OF AMERICA, affiliated with C.I.O., Petitioner.

CASE No. VI-R-91

April 4, 1938

PETITION FOR INVESTIGATION AND CERTIFICATION OF REPRESENTATIVES PURSUANT TO SECTION 9(c) OF THE NATIONAL LABOR RELATIONS ACT

Name of employer Pittsburgh Plate Glass Company

Address Grant Building, Pittsburgh, Pennsylvania

General nature of business Glass manufacturing, plate, safety, and window glass.

Approximate total number of employees 10,000 Description of the bargaining unit which petitioner claims is appropriate all production and maintenance employees except clerical and supervisory, and except those who are members of Window Glass Cutters' League of America, affiliated with the A.F. of L., in the window glass plants of Company.

Approximate number of employees in such unit

Number or percentage of employees in such unit who have designated or selected petitioner to be their representative for collective bargaining Production and maintenance employees numbering 8,000, located at the following plants: 2 plants at Creighton, Penna., 2 at Ford City, Penna., 1 at Clarksburg, W. Va., 1 at Mt. Vernon, Ohio, 1 at Henryetta, Oklahoma, 1 at Crystal City, Mo.

Names of any other known individuals or labor organizations who claim to represent any of the employees in such bargaining unit (1) Window Glass Cutters' League of America, affiliated with A. F. of L. (2) Independent Union at Crystal City, Mo.

Any other facts which petitioner considers relevant -There is now a charge on the docket of the St. Louis, Mo., Regional Office, NLRB, against the Independent Union at Crystal City, Mo., Flat Glass Workers of America have contract with Company covering all plants except the Crystal City, Mo. plant calling for one unit.

The undersigned hereby alleges that a question has arisen concerning the representation of the employees in the above bargaining unit, in that: The Company refuses to recognize the Federation of Flat Glass Workers of America as the sole collective bargaining agency for all plants of the Company as one unit.

The undersigned further alleges that said question concerning representation is a question affecting commerce within the meaning of said act.

The undersigned requests that pursuant to section 9(c) of the National Labor Relations Act, the National Labor Relations Board investigate such controversy and certify to the parties the name or names of the representatives that have been designated or selected by said employees.

Subscribed and sworn to before me this 4th day of April, 1938 at Pittsburgh, Penna.

/s/ Robert C. Williams
Field Examiner

U. S. GOVERNMENT PRINTING OFFICE 16—4480

Name and address of employees or representatives filing the petition. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

/s/ Irwin L. De Shetler
Secretary-Treasurer, Federation of Flat Glass Workers of America, affiliated with C.I.O.
Room 605 - 85 East Gay Street, Columbus, Ohio

529

354A

N. L. R. B. No. 86
Revised 7-11-39
COPY

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Sixth REGION

In the matter of—

PITTSBURGH PLATE GLASS COMPANY

and

FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C.I.O.

Petitioner.

CASE No. VI-R-91

May 13, 1938

AMENDED

PETITION FOR INVESTIGATION AND CERTIFICATION OF REPRESENTATIVES PURSUANT TO SECTION 9 (c) OF THE NATIONAL LABOR RELATIONS ACT

Name of employer Pittsburgh Plate Glass Company

Address Grant Building, Pittsburgh, Pennsylvania

General nature of business Glass manufacturing, plate, safety, and window glass

Approximate total number of employees 10,000 Description of the bargaining unit which petitioner claims is appropriate See Appendix "A" attached hereto.

Approximate number of employees in such unit

Number or percentage of employees in such unit who have designated or selected petitioner to be their representative for collective bargaining Approximately 8,000 employees as follows: 2500 at Creighton, Pa.; 1600 at Ford City, Pa.; 2400 at Crystal City, Mo., 600 at Clarksburg, W. Va.; 600 at Mt. Vernon, Ohio; 300 at Henryetta, Okla.

Names of any other known individuals or labor organizations who claim to represent any of the employees in such bargaining unit (1) Window Glass Cutters' League of America, affiliated with A.F. of L. at Clarksburg, W. Va., Mt. Vernon, Ohio and Henryetta, Okla.; (2) Crystal City Glass Workers Union at Crystal City, Mo.

* Any other facts which petitioner considers relevant - Below

The undersigned hereby alleges that a question has arisen concerning the representation of the employees in the above bargaining unit, in that: The Company refuses to recognize the bargaining unit hereinabove set forth as the appropriate bargaining unit and refuses to recognize the petitioner as the exclusive bargaining representative of all employees (with the exceptions above set forth) of the Company in said unit.

* Petitioner has single contract with Company covering all plate, safety and window glass plants of the Company except the plant of the Company at Crystal City, Missouri. There is a charge pending at the National Labor Relations Board Regional Office, St. Louis, Missouri, against the Company alleging violation of § (1) and (2) of the National Labor Relations Act with reference to the Crystal City Glass Workers Union at Crystal City, Mo.

The undersigned further alleges that said question concerning representation is a question affecting commerce within the meaning of said act.

The undersigned requests that pursuant to section 9 (c) of the National Labor Relations Act, the National Labor Relations Board investigate such controversy and certify to the parties the name or names of the representatives that have been designated or selected by said employees.

Subscribed and sworn to before me this 13th day of May, 1938 at Pittsburgh, Penna.

/s/ Charles T. Douds
Regional Director

U. S. GOVERNMENT PRINTING OFFICE 16—4480

Name and address of employees or representatives filing the petition. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

FEDERATION OF FLAT GLASS WORKERS OF AMERICA, affiliated with C.I.O.
By: /s/ Irwin L. De Shetler
Secretary & Treasurer
Rm. 603 - 85 East Gay Street
Columbus, Ohio

530

3541

[fol. 531] Copy

Appendix "A"

All production and maintenance employees employed in the Company's plate and safety glass plants, located at Creighton and Ford City, Pennsylvania, and Crystal City, Missouri, and its window glass plants located at Mt. Vernon, Ohio; Clarksburg, West Virginia; and Henryetta, Oklahoma, except clerical and supervisory employees in all of the plants aforementioned and except those employees who are members of the Window Glass Cutters' League of America, affiliated with the A. F. of L., employed in the window glass plants of the Company at Mt. Vernon, Ohio; Clarksburg, West Virginia and Henryetta, Oklahoma.

Board Exhibit 1-B

[fol. 532] United States of America

Before the National Labor Relations Board

Case No. VI-R-91

In the Matter of Pittsburgh Plate Glass Company *and* Federation of Flat Glass Workers of America, Affiliated with C. I. O.

Case No. XIV-C-174

In the Matter of Pittsburgh Plate Glass Company, Works No. 9 and Federation of Flat Glass Workers of America, Affiliated with C. I. O.

Order of Consolidation and Directing Investigation and Hearing

Petition having been filed in this matter for investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act in Case No. VI-R-91, and a charge having been filed in Case No. XIV-C-174, and the Board having considered same and being advised in the premises, and it appearing to the Board that questions affecting commerce concerning the representation of em-

ployees have arisen in the case in which petition has been filed,

It is Hereby Ordered that the Regional Director for the Sixth Region conduct an investigation and provide for an appropriate hearing upon due notice, pursuant to Section 9 (c) of the National Labor Relations Act and Article III, Section 3 of the Rules and Regulations—Series 1, as amended, of the National Labor Relations Board, and report to the Board regarding such investigation and hearing in the representation case aforementioned.

And it is Further Ordered that pursuant to Article III, Section 10 (c) (2) and Article II, Section 37 (b) of the Rules and Regulations—Series 1, as amended, for purposes of hearing, these cases be and hereby are consolidated and that one record of the hearing shall be made.

Dated, Washington, D. C., May 26, 1938.

By direction of the Board:

(S.) Nathan Witt, Secretary. (Seal)

[fol. 533] BOARD EXHIBIT No. 1-C

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Case No. VI-R-91

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C. I. O.

Case No. XIV-C-174

In the Matter of PITTSBURGH PLATE GLASS COMPANY, WORKS No. 9 and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C .I. O.

ORDER OF SEVERANCE

A petition and charge having been filed with the Regional Directors for the Sixth and Fourteenth Regions, respectively, and these matters having been consolidated for the purpose of hearing, and the National Labor Relations Board deeming it necessary, in order to effectuate the pur-

poses of the National Labor Relations Act that Case No. VI-R-91 be severed from Case No. XIV-C-174,

It is Hereby Ordered that Case No. VI-R-91 be, and it hereby is, severed from Case No. XIV-C-174.

Dated, Washington, D. C., July 21, 1938.

By direction of the Board:

Nathan Witt, Secretary. (Seal.)

[fol. 534] Certificate to order omitted in printing.

[fol. 535] BOARD EXHIBIT 1-C

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Case No. VI-R-91

[Title omitted]

ORDER DESIGNATING TRIAL EXAMINER

An Order directing an investigation and hearing in this case having been made on the 26th day of May, 1938

It is Hereby Ordered That Tilford E. Dudley act as Trial Examiner in the above case in place and stead of Joseph L. Maguire and perform all the duties and exercise all the powers granted to Trial Examiners under Article III, Section 5 of the Rules and Regulations—Series 1, as amended, of the National Labor Relations Board.

Dated, Washington, D. C., October 12, 1938.

By direction of the Board:

(S.) George O. Pratt, Chief Trial Examiner. (Seal.)

[fol. 536] BOARD EXHIBIT No. 2

BEFORE THE NATIONAL LABOR RELATIONS BOARD, SIXTH REGION

In the Matter of PITTSBURGH PLATE GLASS COMPANY

MOTION FOR LEAVE TO INTERVENE

Comes now Crystal City Glass Workers' Union, a corporation organized and existing under pro forma decree by virtue of the laws of the State of Missouri, and hereby files

its motion to intervene in the above entitled proceeding and for grounds in support of this motion states as follows:

(1) That it is an interested party in the above proceeding, having a membership of approximately 1300 individuals, all of whom are employees (none of whom are employed in a supervisory capacity) of the Respondent, Pittsburgh Plate Glass Company, Works No. 9, at Crystal City, Missouri. That the total number of employees of said Pittsburgh Plate Glass Company in its said Plant No. 9 is approximately 1600.

(2) That its members are severally interested in the subject matter of this proceeding and in order to afford a full and complete inquiry into the question of representation at said Plant No. 9, as provided under the National Labor Relations Act and the Rules and Regulations governing the procedure thereof, they desire to be heard in this matter. However, because of the great distance from Crystal City, Missouri, to Pittsburgh, Pennsylvania, the cost to make [fol. 537] such a trip and other reasons, it is impossible for witnesses to be present at this hearing and to adequately and fairly present their cause. That if testimony is taken at Crystal City, Missouri, it can be conclusively shown that the unit appropriate for collective bargaining at Plant No. 9 is the Plant Unit.

(3) That it is a labor organization as defined in Section 2-(5) of the National Labor Relations Act.

(4) That the members of the Crystal City Glass Workers' Union by the nature of their employment as employees of the Pittsburgh Plate Glass Company are engaged in "Commerce" as that word is defined in Section 2-(6) of the National Labor Relations Act.

Wherefore, the said Crystal City Glass Workers' Union, for the reasons herein stated, requests that it may intervene in this proceeding and participate in the hearing or hearings wherein its interests are involved and that hearings be held in Crystal City, Missouri, in order to afford a full and complete inquiry on the issue as to representation at said Plant No. 9.

Crystal City Glass Workers' Union, By (S.) Alfonse L. Laiben, President.

STATE OF PENNSYLVANIA
County of Allegheny, ss:

Alfonse L. Laiben, being duly sworn on his oath says that he is the President of the Crystal City Glass Workers' Union and that the facts set forth in the above and foregoing motion are true.

(S) Alfonse L. Laiben

Subscribed and sworn to before me this 13th day of October, 1938. My Commission expires Dec. 2, 1940. (S) Beatrice Mallinger, Notary Public. (Seal.)

[fol. 538] BOARD EXHIBIT 3

BEFORE THE UATIONAL LABOR RELATIONS BOARD, SIXTH REGION

Case No. VI-R-91

[Title omitted]

STIPULATION

Pittsburgh Plate Glass Company and the National Labor Relations Board hereby stipulate, for the purpose of the above-entitled case and for no other purpose, the following facts in connection with Pittsburgh Plate Glass Company (hereinafter for brevity called the Company) and its business.

I. On August 24, 1883, The Pittsburgh Plate Glass Company, a predecessor of the Company, was formed under the laws of the Commonwealth of Pennsylvania, and on May 3, 1907, it was merged with another corporation under the laws of the said Commonwealth to form a corporation under the name "Pittsburgh Plate Glass Company", which corporation on November 3, 1920, was merged with several other corporations under the laws of the said Commonwealth to form the Company. The Company has its principal office in Pittsburgh, Pennsylvania, and is now and from [fol. 539] the time of its incorporation has continuously been engaged in the manufacture, sale and distribution of many types of glass.

II. The Company is also engaged in the manufacture, sale and distribution of chemicals, paints, varnishes, lacquer and brushes.

III. The Company also owns and operates refractories, quarries, gas wells and lines, and research laboratories in connection with the manufacture, sale and distribution of its products set forth in paragraphs I and II above.

IV. The principal plants and divisions of the Company and the corporations of whose stock it owns fifty per cent (50%) or more, and the principal products of such plants and divisions are as follows:

A. Glass

1. Plate glass factories

(a) Works No. 1—Creighton, Pa.
(b) Works No. 4—Ford City, Pa.
(c) Works No. 9—Crystal City, Mo.
(d) European Factory—Courcelles, Belgium.

2. Carrara structural glass and heavy plate glass

(a) Works No. 6—Ford City, Pa.

3. Safety glass factories

(a) Works No. 1—Duplate Division—Creighton, Pa.
(b) Works No. 9—Duplate Division—Crystal City, Mo.

4. Window glass factories

(a) Works No. 10—Henryetta, Okla.
(b) Works No. 11—Mt. Vernon, Ohio.
(c) Works No. 12—Clarksburg, W. Va.

[fol. 540] 5. Store front metal factory

(a) Works No. 19—Kokomo, Ind.

6. Glass block plant

(a) Pittsburgh Corning Corporation, Port Allegheny, Pa. This corporation is engaged in the manufacture of glass blocks and handles other types of structural glass, including carrara. It is owned by the Company and the Corning Glass Works, each owing fifty per cent (50%) of the stock.

B. Chemicals

1. Columbia Chemical Division—Barberton, Ohio.

Products: Heavy chemicals, including soda ash, caustic soda, calcium chloride, liquid chlorine, bicarbonate of soda, whiting, Hennig's purifier and salt.

2. Southern Alkali Corporation—Corpus Christi, Texas. This corporation manufactures soda ash, caustic soda and liquid chlorine; the corporation is owned by the Company and the American Cyanide Company, the former owning fifty-one per cent (51%) and the latter forty-nine per cent (49%) of the stock.

C. Cement

1. Columbia Cement Division—Zanesville, Ohio.

Product: Columbia Portland Cement.

D. Paint, Varnish and Lacquer

1. Paint Division plants—Milwaukee, Wis.; Newark, N. J.; Los Angeles, Cal.; Portland, Ore.

[fol. 541] Products: Paints, varnishes, lacquers, enamels, air craft, automotive, industrial, structural steel and railway finishes.

2. Ditzler Color Company—Detroit, Mich. This corporation is owned by the Company and is engaged in the manufacture of automotive and other lacquers and finishes.

3. Corona Chemical Division—Milwaukee, Wis.

Products: Dry colors, insecticides and fungicides, seed germ disinfectants.

4. Linseed Oil Division—Red Wing, Minn. and Newark, N. J.

Products: Linseed oil and linseed meal.

5. The Thresher Varnish Company—Dayton, Ohio. This corporation is owned by the Company and is engaged in the manufacture of industrial finishes.

E. Brushes

1. Brush Division—Baltimore, Md.

Products: Brushes for the professional and amateur painter; wire and fiber industrial brushes.

2. Brush handle plant—Keene, N. H.

V. The Company owns and operates warehouses located in seventy-one (71) principal cities of the United States; these warehouses are maintained for the sale, service and distribution of glass, paint, varnish, lacquer and brushes. [fol. 542] The chemical products of the Company are sold by Columbia Alkali Corporation.

VI. The Company also owns and operates in connection with its business:

(a) Refractories in Elwood, Ind.
(b) Silica glass sand deposit near Crystal City, Mo.
(c) Limestone deposit near Zanesville, Ohio.
(d) Gas properties and gas lines near Ford City, Pa.
(e) Research laboratories:

Central research—Pittsburgh, Pa.
Glass—Creighton, Pa.
Paints—Milwaukee, Wis.
Chemicals—Barberton, Ohio.

VII. A portion of the raw materials used at each of the domestic glass manufacturing plants of the Company are shipped into the respective states where such plants are located and a portion of the glass products of each plant are shipped outside the respective states where such plants are located. The following schedule shows as to each plant for the year 1937 the approximate percentages of raw materials shipped into and finished products shipped outside the respective states where such plants are located:

Plate Glass	Percentage of Raw Materials Shipped Into State of Works Location	Percentage of Products Shipped Outside State of Works Location
Works No. 1	8*	99
Works No. 4	14	99
Works No. 9	20**	99
Carrara Structural and Heavy Plate Glass		
Works No. 6	45	95

* Combined figure for plate glass Works No. 1 and safety glass Works No. 1.

** Combined figure for plate glass Works No. 9 and safety glass Works No. 9.

Plate Glass	Percentage of Raw Materials Shipped Into State of Works Location	Percentage of Products Shipped Outside State of Works Location
[fol. 543] Safety Glass		
Works No. 1	8*	95
Works No. 9	20**	100
Window Glass		
Works No. 10	50	83
Works No. 11	28	92
Works No. 12	39	99

VIII. The total volume of shipments of finished products for the year 1937 from the plate, safety and window glass factories of the Company is as follows:

Plate Glass	Square Feet
Works No. 1	35,072,350.33
Works No. 4	22,203,732.94
Works No. 9	34,511,734.17
Carrara Structural and Heavy Plate Glass	
Works No. 6	150,219.16
Safety Glass	
Works No. 1	17,416,303.36
Works No. 9	13,240,234.
Window Glass	**Boxes**
Works No. 10	494,530
Works No. 11	893,389
Works No. 12	975,806

IX. The transfer agents for the Company are Peoples-Pittsburgh Trust Company, Pittsburgh, Pa., and City Bank Farmers Trust Company, New York, N. Y.

[fol. 544] X. The registrars for the Company are The Union Trust Company of Pittsburgh, Pittsburgh, Pa., and Guaranty Trust Company of New York, New York, N. Y.

(S.) Smith Buchanan & Ingersoll, Attorneys for Pittsburgh Plate Glass Company. (S.) Robert H. Kleeb, Regional Attorney for the National Labor Relations Board.

Dated: October 13, 1938.

* Combined figure for plate glass Works No. 1 and safety glass Works No. 1.

** Combined figure for plate glass Works No. 9 and safety glass Works No. 9.

[fol. 545] BEFORE THE NATIONAL LABOR RELATIONS BOARD

Case No. VI-R-91

[Title omitted.]

REQUEST FOR PERMISSION TO FILE BRIEF AND TO MAKE ORAL ARGUMENT

And now, to-wit, October 19, 1938, the Pittsburgh Plate Glass Company, by its attorneys, hereby requests permission from the National Labor Relations Board to file a brief in the above entitled case and to make oral argument thereon, at such time or times as the Board may determine.

(S.) John G. Buchanan, J. Wesley McAffee, William J. Kyle, Jr., Smith, Buchanan & Ingersoll, Attorneys for Pittsburgh Plate Glass Company.

21st October 1938

[fol. 546] Messrs. Smith, Buchanan & Ingersoll,
Union Trust Building,
Pittsburgh, Penna.

Re: Pittsburgh Plate Glass Co. (Formerly Case No. VI-R-91) Case No. R-1058

DEAR SIRS:

This will acknowledge your letter of October 19th with enclosed request for oral argument and permission to file brief, duly filed on behalf of the Respondent in the above noted case.

In accordance with such request we hereby advise you that you have been granted until November 21st for the filing of brief. This privilege is granted all parties to the proceeding. Your request for oral argument will be acted upon in the near future, and you will be duly advised.

Very truly yours, Nathan Witt, Secretary.

CC—Igoe, Carroll, Keefe & McAfee, 208 N. Bdway, St. Louis, Mo.

Irving L. DeShelter, Rm. 603, 85 E. Gay St. Columbus, Ohio.

Window Glass Cutters' League, 11 E. Gay St., Columbus, Ohio.

Fred J. Hoffmeister, 208 No. Broadway, St. Louis, Mo.

[fol. 547] NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D. C.

Case No. R-1058

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C. I. O.

NOTICE OF HEARING

Please Take Notice that pursuant to authority vested in the National Labor Relations Board under an Act of Congress (49 Stat. 449) a hearing will be held before the National Labor Relations Board on Tuesday, December 20, 1938 at 10:00 a. m., or as soon thereafter as the Board may hear you, in Room 326, Shoreham Building, Fifteenth and H. Streets, N. W., Washington, D. C., for the purpose of oral argument in the above-entitled matter. Argument will be limited to one-half hour for each party, and you are hereby advised that in view of the Board's docket no request for additional time made at the hearing will be granted.

You may appear and be heard if you so desire.

Should the party requesting oral argument decide not to appear, such party must immediately notify the Board and all other parties. This is necessary in order to avoid serious inconvenience and expense to other parties.

Dated, Washington, D. C., November 19, 1938.

(Stamped) Nathan Witt, Secretary. (Seal.)

[fol. 548] BEFORE THE UATIONAL LABOR RELATIONS BOARD

Case No. R-1058

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C. I. O.

Room 442 Shoreham Building, Washington, D. C.

A hearing was held in the above matter for the purpose of Oral Argument at the above place on December 20, 1938 at 10:00 A. M.

Before:

J. Warren Madden, Chairman
Edwin S. Smith, Member
Donald Wakefield Smith, Member

Appearances:

Robert Kramer, of Counsel to the Board
For the Company:
John G. Buchanan, 1025 Union Trust Bldg., Pittsburgh, Penna.
Donald L. McCoskey, 1025 Union Trust Bldg., Pittsburgh, Penna.
J. Wesley McAffee, Boatmen's Bank Bldg., St. Louis, Missouri
For the Union:
William T. Lewis, 35 E. Gray Street, Columbus, Ohio.
H. D. Holmes, 35 E. Gray Street, Columbus, Ohio.

[fol. 549] BEFORE THE NATIONAL LABOR RELATIONS BOARD, SIXTH REGION

Case No. VI-C-319

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with C. I. O.

MOTION FOR LEAVE TO INTERVENE

Comes now Crystal City Glass Workers' Union, a corporation organized and existing under pro forma decree by virtue of the laws of the State of Missouri, and hereby files its motion to intervene in the above entitled proceedings and for grounds in support of this motion states as follows:

(1) That it is an interested party in the above proceeding, having a membership of approximately 1500 individuals, all of whom are employees (none of whom are employed in a supervisory capacity) of the Respondent, Pittsburgh Plate Glass Company, Works No. 9, at Crystal City, Missouri. That the total number of employees of said Pittsburgh

Plate Glass Company in its said Plant No. 9 is approximately 1800.

(2) That the said Crystal City Glass Workers' Union and its members are severally interested in the subject matter of this proceeding and in order to afford a full and complete inquiry into the question of representation at said Plant No. 9, as provided under the National Labor Relations Act and the Rules and Regulations, Series 1, as amended, governing the procedure of the National Labor Relations Board, they desire to be heard in this matter. However, because of the great distance from Crystal City, Missouri, [fol. 550] to Pittsburgh, Pennsylvania, the cost to make such a trip and other reasons, it is impossible for all necessary witnesses to be present at this hearing and to adequately and fairly present their cause. That if testimony is taken at Crystal City, Missouri, it can be conclusively shown that the unit appropriate for collective bargaining at Plant No. 9 is the Plant Unit.

(3) That it is a labor organization as defined in Section 2(5) of the National Labor Relations Act.

(4) That the Decision and Certification of Representatives of the National Labor Relations Board of January 13, 1939, in Case No. R-1058, referred to in paragraph 6 of the complaint in this case, in which the Federation of Flat Glass Workers of America, affiliated with the C. I. O., was certified as the exclusive representative of all the production and maintenance employees of the Respondent, so far as it affects the employees of Respondent at its Plant No. 9, Crystal City, Missouri, the Crystal City Glass Workers' Union and the members thereof, is unreasonable and arbitrary and is unconstitutional, void and of no force and effect, because said employees, said Crystal City Glass Workers' Union and the members thereof were deprived of their liberty and property without due process of law, in that they were denied the right to introduce material evidence and to be heard on the question of representation as to said Plant No. 9 of the Respondent.

(5) The Crystal City Glass Workers' Union has been duly designated and selected as their representative for the purposes of collective bargaining by a majority of the employees of the Pittsburgh Plate Glass Company at its plant at

Crystal City, Missouri. Such employees constitute the unit appropriate for the purposes of collective bargaining, and the Crystal City Glass Workers' Union is therefore the [fol. 551] exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

Wherefore, the said Crystal City Glass Workers' Union moves that it be allowed to intervene in this proceeding and participate in the hearing or hearings wherein its interests are involved and that hearings be held in Crystal City, Missouri, in order to afford a full and complete inquiry on the issue or issues herein and as to representation at said Plant No. 9.

Crystal City Glass Workers' Union, By (s.) Alfonse L. Laiben, President.

Duly sworn to by Alfonse L. Laiben. Jurat omitted in printing.

[fol. 552] BEFORE NATIONAL LABOR RELATIONS BOARD

Case No. VI-C-319

[Title omitted]

RESPONDENT'S STATEMENT OF EXCEPTIONS

And now, March 29, 1939, comes the respondent Pittsburgh Plate Glass Company, by Smith, Buchanan & Ingersoll and Igoe, Carroll, Keefe & McAfee, its attorneys, and upon the entire record in the above case, excepts to the following rulings, findings, conclusions, recommendations, decision and certification:

1. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness Chandler, which question, objection, ruling and answer were as follows:

"Q. Well, any suggestions you have are generally carried out by the Plant Superintendent, is it not, in the way of changes?

A. Well, not always

Q. Well, in the majority you would say it is?

Mr. Buchanan: Objected to as irrelevant, incompetent and immaterial.

Mr. Holmes: The only purpose is to show centralization.

Trial Examiner Dudley: I will allow him to answer it.

(The Reporter read the previous question.)

A. I think that is true." (R. R. 127)

[fol. 553] Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

2. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness Chandler, which question, objection, ruling and answer were as follows:

"Q. In Crystal City as of February 1, 1938, what does your record show that the payroll was at that particular time?

Mr. Buchanan: Objected to as irrelevant and immaterial. The issue is of the employees at the present time and not at the times stated.

Trial Examiner Dudley: I will overrule the objection.

* * * * * * *

A. Our records show that 1916 men were on the payroll at that time under the classification you specified." (R. R. 128, 131)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

3. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness Chandler, which question, objection, ruling and answer were as follows:

"Q. Do you have with you the number on April 4, 1938?

* * * * * * *

Mr. Buchanan: Objected to as irrelevant and immaterial.

* * * * * * *

[fol. 554] Trial Examiner Dudley: Objection is overruled.
A. 1582." (R. R. 131)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

4. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objections of the respondent to questions put to Petitioner's witness Chandler, which questions, objections, rulings and answers were as follows:

"Q. Do you have with you the number of employees in the Ford City Plant on February 1, 1938?
A. Yes.

Mr. Buchanan: I make the same objection, Mr. Examiner.

* * * * * * *

Trial Examiner Dudley: Let it be understood that the same objections will follow as of February 1, 1938, the objection of the Crystal City Glass Workers' Union and also the Company are noted and they are overruled, and with regard to your question, are you referring to Works No. 4 or No. 6 or both at Ford City?

* * * * * * *

A. 1535, February 1, No. 4.
Q. Is that Works No. 4?
A. That is Works No. 4.

Q. How many?"
A. 1535.
Q. As of April 4th?
A. 1402.

• • • • • • •

Q. Now, No. 6?
A. February, 367.
Q. April 4th?
A. 374.

[fol. 555] Q. Creighton, Pennsylvania, as of February 1, 1938?
A. 256.
Q. As of April 4th?
A. I haven't April 4th.

• • • • • • •

Q. (By Mr. Holmes) The Duplate Division at Creighton, Pennsylvania, is Works No. what?
A. It is a part of Works No. 1.
Q. As of February 1st, what number?
A. 947.
Q. And as of April 4th?
A. 467.

• • • • • • •

Q. Clarksburg, West Virginia, how many plants do you have there?
A. One plant.
Q. What number of employees as of February 1, 1938?
A. 350.

• • • • • • •

Q. And as of April 4, 1938?
A. I haven't April 4th.

• • • • • • •

Q. Mount Vernon, Ohio, as of February 1, 1938?
A. 226.
Q. April 4th, do you have that?
A. I haven't got it.

• • • • • • •

Q. Henryetta, Oklahoma, as of February 1, 1938?
A. 289.
Q. April 4th, do you have that?
A. No." (R. R. 131-133, 134)

Upon this ruling the ruling of the Board was as follows:

[fol. 556] "During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4.)

5. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objections of the respondent to questions put to petitioner's witness Chandler, which questions, objections, rulings and answers were as follows:

"Q. What is the normal payroll for Creighton, Pennsylvania?

Mr. Buchanan: Objected to as irrelevant.
Trial Examiner Dudley: He may answer.

A. It is approximately 1200 men. I mean Creighton, I am talking about.
Q. Yes, 1200 men?
A. 1200 applies to Creighton.

Trial Examiner Dudley: Does that apply to safety glass and plate glass?
A. That applies to flat glass only.

By Mr. Holmes:

Q. Do you have any safety glass at Creighton?
A. Yes.
Q. How does that compare to normal payroll?

Mr. Buchanan: Objected to as irrelevant and immaterial.
Trial Examiner Dudley: Objection overruled.
Mr. Buchanan: May I have it understood, Mr. Examiner, that my objection will apply to all questions as to normal operations?
Trial Examiner Dudley: That is understood, both objections noted and overruled." (R. R. 141-142.)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objec-

tions to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4.)

[fol. 557] 6. The respondent excepts to the ruling of the Board affirming the rulings of the Trial Examiner admiting in evidence the Board's Exhibits Nos. 4-A, 4-B, 4-C and 4-D, as follows:

By Mr. Kleeb:

"Q. Mr. Chandler, I show you Board's Exhibit No. 4-A for identification, and ask you what that is?

A. It is names on the payroll at Creighton on December 8, 1937.

• • • • • • •

Q. I show you Board's Exhibit No. 4-B for identification. Please state what that is.

• • • • • • •

A. It is a payroll for Clarksburg Works, No. 12, on December 8th.

Q. I show you Board's Exhibit 4-C for identification and ask you what that is?

A. A payroll for Works No. 11 at Mount Vernon for December 8th.

Q. And Board's Exhibit 4-D for identification and ask you what that is?

A. A payroll for Works No. 10 at Henryetta for December 8th.

Mr. Kleeb: I offer Board's Exhibits Nos. 4-A, 4-B, 4-C and 4-D in evidence.

Mr. Buchanan: Objected to as incompetent, irrelevant and immaterial.

• • • • • • •

Trial Examiner Dudley: Objection overruled. They may be admitted." (R. R. 154-155)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no preju-

dicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

7. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner admitting in evidence the Board's Exhibits Nos. 5-A, 5-B and 5-C, as follows:

[fol. 558] "Q. (Mr. Kleeb) I show you Board's Exhibit No. 5-A for identification. Please state what that is?

A. Payroll for April 4th for Ford City Works, Shop No. 2, Works No. 4 and Works No. 6.

• • • • • • •

Q. (By Mr. Kleeb) I show you Board's Exhibit No. 5-B for identification. Please state what this is?

A. It is the payroll for April 4th for the Duplate Plant at Creighton.

Q. I show you Board's Exhibit No. 5-C for identification. Please state what that is?

A. The payroll for April 4th, Works No. 9 at Crystal City.

• • • • • • •

Mr. Kleeb: I offer Board's Exhibit Nos. 5-A, B and C in evidence.

Mr. Buchanan: Objected to as irrelevant and immaterial.

• • • • • • •

Trial Examiner Dudley: Objection overruled and the same are admitted in evidence." (R. R. 155, 156)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

8. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to questions put to petitioner's witness Chandler, which questions, objection, ruling and answers were as follows:

"Mr. Buchanan: May I have it understood, Mr. Examiner, that my objection will apply to all questions as to normal operations?

Trial Examiner Dudley: That is understood——

• • • • • • •

[fol. 559] Q. Mr. Chandler, are you familiar with the normal size of the payrolls, that is the number of people who are employed at these various plants?

A. Yes.

Q. What do you mean by normal?

A. A normal operation at a window glass plant is when one tank is operating with all the consequent labor operating.

• • • • • • •

Q. Do you know as to what times these various plants might have been operating to capacity, and by that you mean a normal size payroll?

A. Yes.

Q. In that case then, could you tell me whether or not the payrolls of September 30, 1938 reflect a normal payroll as to the number of employees listed thereon?

A. They do not reflect a normal payroll at all plants.

Q. Do they reflect a normal payroll at any plant?

A. They reflect a normal payroll at Ford City, Crystal City and Clarksburg.

Q. You say at Ford City?

A. Yes.

Q. And Clarksburg?

A. Yes.

Q. And Crystal City?

A. Yes, that is correct.

Q. For example, I notice at Clarksburg that there are 353 employees as of September 30th and 350 as of February 1, 1938.

A. That is right.

Q. Now, could you tell me what happened to the three employees, or those three new employees?

A. I couldn't tell you that. I don't know. There is a certain variation in organization due to the question of repairs or what might be out of the ordinary. That varies quite a little.

Q. At Ford City Plate Glass Works I notice that the number has dropped from 1535 on February 1, to 1408 on September 30, 1938. Taking the payrolls and checking them would tell me, I suppose, but is it your impression

that most of the men working on September 30th had been working there say for the last year?

[fol. 560] A. I think generally that is true.

Q. There seems to be about one hundred men who are not working there now who were working last February. Do you know what has happened to those men?

A. There may have been more construction work going at that time or some outside work that may have employed more men. The normal organization is fairly well set, but it does vary, due to the emergency of getting out orders or repair work.

Q. At Ford City plant, do you think that 1535 men as of February 1st, or the 1408 men as of September 30th would consitute a normal?

A. Well, under the same circumstances, either one would be normal.

* * * * * * *

Q. With regard to Crystal City, which I believe you said was operated about normal at this time?

A. That is correct.

Q. There you have lost about 300 members since last February. Have you any explanation of that?

A. I think again that is a case of construction work, extraordinary work that is out of the normal.

Q. As I get it, you are inclined to think that the higher numbers of men employed last February were caused by men being called on for special construction work?

A. Construction or the condition of our orders, which may also affect our business.

Q. Do you think those members of last February, those figures, were they really high? Were they generally high?

A. Generally high.

Q. Abnormally high?

A. I think they are on the high side. It is more normal to take the lower figure.

Q. As of September 30, 1938?

A. That is true.

Q. Let us turn to some of the other plants. What would you say would be normal for the other plants?

A. Which plant?

Q. Take the Creighton Plant No. 1, plate glass?

[fol. 561] A. The only one that is normal is the December 8th, because the others were shut down. Only such men were on as preparing the plant for operation.

Q. That is December 8th, 1937?

A. Yes.

Q. You state that no date since then was normal?

A. No, that is the last period that they were operating at a normal rate.

Q. They operated any at all since then?

A. I think the last half month ending December 15th was when they shut down. It may have been the 18th, but it was in the neighborhood when the factory shut down, and it has not operated since.

* * * * * * *

Q. How about the Duplate Division of the Creighton plant?

A. The higher number in February is nearer the truer operation or normal operation. We were not in operation on September 30th.

Q. With Board's Exhibit No. 5-B, which I believe is the payroll for the Creighton Duplate Plant on April 4, 1938, would that reflect a normal employment record?

A. The question again, please?

(The reporter read the previous question).

A. No, it would not; it was away below normal.

Q. Do you know about how far below normal it is?

A. I should say the February 1st figure is much nearer normal at that Duplate plant.

* * * * * * *

Q. Let us consider the Mount Vernon, Ohio, plant, Works No. 11?

A. The only normal payroll would be December 8th, that is our last operation." (R. R. 141-142, 164, 165-169, 170)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

[fol. 562] 9. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question

put to petitioner's witness DeShetler, which question, answer, motion and ruling were as follows:

"Q. Now, you are secretary and treasurer of the Federation of Flat Glass Workers of America, and are you in a position to know the number of members that you have who are employees of the Pittsburgh Plate Glass Company in their various plants?

A. The total amount?

Q. The total number.

A. We have a record that is submitted to us each month from the local unions. I would not know the exact figures at the present time, but I would say in all of the plants of the company we have approximately 95 per cent, with the exception of Crystal City, where we are at the present time close to a majority.

Mr. Buchanan: If your Honor please, I move that the answer be struck out. It is not the best evidence. The Union's cards are the best evidence showing what men are in good standing.

* * * * * * *

Trial Examiner Dudley: Of course, I agree with you that the cards are the best evidence, but I will let the answer stand." (R. R. 180)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

10. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

"Q. (By Mr. Holmes): I withdraw that particular question, which is probably incorrect. Did you have occasion to visit the plant while you were in Crystal City?

[fol. 563] A. Yes, I went over to the office.

* * * * * * * *

In the meantime I discussed the possibility of organizing with the employees around the employment office and on the corner there, and several of them asked me to meet them at the house, that they didn't want to be seen talking in front of the Company office, that they would like to have an organization there but they were fearful of losing their jobs if the officials of the Company saw me talking to them on Company property. I didn't go back to go through the plant. I arranged with the Committee there to secure a hall to hold a meeting a week later, and I left. As I said, I was not there on official business; it was more or less merely to sound out the employees to see how they felt. We made an effort to secure a hall from one of the doctors or dentists in the community, and he refused on the ground that the Company wouldn't like it.

Mr. Buchanan: Objected to as hearsay and also as not responsive to any question on the record.

• • • • • • • •

Mr. Holmes: He is testifying to general conditions.

Mr. Buchanan: I would object to a question about general conditions.

Trial Examiner Dudley: I will let you answer, but your answer should be confined to what you saw and what you heard." (R. R. 223-224)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

11. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness McVay, which question, answer, motion and ruling were as follows:

"Q. (By Mr. Holmes) Just what you saw and what you did yourself.

• • • • • • •

[fol. 564] A. The doctor told me that he was running for State Representative in the State of Missouri, and that he

felt that if he allowed us to use the hall at all that it might go against him, and he was depending upon the officials of the Company for support, and he might lose their support if he allowed us to use the hall for a Union meeting.

Mr. Buchanan: I move that that be stricken out as incompetent and irrelevant.

Trial Examiner Dudley: Is that what he said?

The Witness: That's what he said.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: Objection overruled." (R.R. 224-225)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

12. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness McVay, which question, answer, motion and ruling were as follows:

"By Mr. Holmes:

"Q. You may continue from there. That is at that meeting you said the superintendent and the assistant superintendent attended your meeting. Did you have any conversation with them?

A. Yes, Mr. Oakes and I had quite a lengthy conversation. Mr. Balsiger did most of the talking, and of course he was opposed to organized labor. He stated that there had always been labor racketeers, racketeers in the labor movement, and that he had had lots of experience with the miners in Pennsylvania and West Virginia, and he didn't feel that employees of the Company should belong to labor organizations.

Mr. Buchanan: I move that that last statement be stricken from the record as being irrelevant to the issue here.

* * * * * * *

Trial Examiner Dudley: I will let it stand, with the distinct understanding that the ruling on my part does not go to show any action by the Company to interfere with the union activities." (R.R. 228, 229)

[fol. 565] Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

13. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

"Q. Now, I ask you to continue with the conversation that you had with Mr. Oakes, if you had any such conversation.

Mr. Buchanan: I object as incompetent and irrelevant to the issue.

Trial Examiner Dudley: Objection overruled.

* * * * * * *

The Witness: Mr. Balsiger said that from this conference that was held in Cleveland, that he could see that the labor leaders didn't have the interests of the men at their plant at heart. The Union paper asked for a closed shop." (R.R. 229-230)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

14. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respon-

dent's motion to strike out the answer to a question put to petitioner's witness McVay, which question, answer, motion and ruling were as follows:

"Q. Then when next did you visit Crystal City, and when was an organization finally established there?

A. The next visit to Crystal City was in 1936.

Q. 1936, what was the occasion of that visit?

A. I was approached by Fred Fitzgerald, another Company employee, an assistant superintendent, I believe, is [fol. 566] the correct title, and editor of the 'Glass Rays', that is the Company official publication. He informed me that the Company had a Committee selected in Crystal City to run me out, and if I got over in Festus, he had arrangements——

Mr. Buchanan: Just a moment, I am making an objection. I move that the remarks of the witness, which are not answering any question, be stricken from the record as altogether irrelevant and immaterial to the issue before your Honor.

Trial Examiner Dudley: I will let it stand." (R.R. 231)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

15. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

"Q. From the cards and from your own knowledge, do you know how many of the employees at Crystal City are members of the Union, or Federation of Flat Glass Workers of America?

* * * * * * *

A. Yes.

Q. Do you know how many members you have in Crystal City?

A. Yes.
Q. How many in good standing?

Mr. Buchanan: Objected to because it is a matter of record. The record will be the best evidence.
Trial Examiner Dudley: I will let him state.

By Mr. Holmes:

Q. How many do you have?
A. 463." (R. R. 233)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

[fol. 567] 16. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

"Q. How many would you say that were not employed that are members?

Mr. Buchanan: Objected to. That is a matter of record. The record will be the best evidence.

• • • • • • • •

A. I would say from 75 to 80 are unemployed." (R. R. 234)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

17. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's

witness McVay, which question, objection, ruling and answer were as follows:

"Q. Do you know of any special skill required in the Crystal City plant that is not required in any other plant?

Mr. Buchanan: That is objected to because the witness says that he has never been in the Crystal City plant.

Mr. Hoffmeister: I join in the objection.

Trial Examiner Dudley: Let him answer.

The Witness: All I know, is that the jobs are all identical in nature, the work in comparison with the duties in the Ford City and Creighton plants and the duties even in the window glass plants, because they were tank furnaces." (R. R. 236-237)

Upon this ruling the ruling of the Board was as follows:

"During course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

[fol. 568] 18. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answers were as follows:

"Q. Well, now calling your attention to the time in 1936 when the strike was on the question of increased pay, when back pay was granted to the other plants other than Crystal City, what do you know about back pay being granted to employees at Crystal City?

A. If I remember it correctly, the employees in the other plants didn't—they got back pay, that is the ones who were working during the strike, the maintenance employees got the back pay from the time the strike was in progress. In Crystal City it is my knowledge from talking to my members that they received back pay for all the time that they worked during the strike.

Q. That is the increased rate of pay, is that right?

A. Yes.

• • • • • • •

Mr. Buchanan: I object to the testimony on the part of this witness as to the conditions at Crystal City during the strike unless he confines his testimony to what he observed during those two half days that he happened to be there.

Mr. Hoffmeister: I join the objection.

Trial Examiner Dudley: I will admit his testimony for such weight as it may have in giving the general picture there." (R. R. 237-238, 239)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

19. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness, McVay, which question, objection, ruling and answer were as follows:

"Q. How about the people's social status there? The employees' social status?

A. They have a lot of social functions there, for instance they have soft ball clubs. I think Mr. Balsiger is the Chairman of the Soft Ball Association there. They have a large country club; the company donates $600.00 a year, I think, for their social functions, out in the country. The country club, I want to explain that it is a piece of land——

[fol. 569] By Mr. McAfee:

Q. How do you know, Mr. McVay, that the Company donates to these enterprises you are mentioning now?

A. Well, I have other people here in the building, I suppose, that could testify as to what the exact amount is. I know from what they told me, people who have been connected with the clubs in an official capacity.

Mr. McAfee: Objected to as hearsay.

Trial Examiner Dudley: I will let him answer." (R. R. 242-243)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

20. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

By Trial Examiner Dudley:

"Q. Did you talk with various employees of the Company about joining the Federation of Flat Glass Workers?

* * * * * * *

Q. Did they say anything to you in the course of this conversation?

A. Yes, they explained to me why they didn't want to join, expressed their reasons as being that they were fearful of losing their jobs.

Mr. Buchanan: I object to the reasons as irrelevant and immaterial.

Trial Examiner Dudley: I will let it remain." (R. R. 245-246)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

[fol. 570] 21. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out all the testimony of the petitioner's witness McVay with regard to membership of the Federation of Flat Glass Workers at Crystal City, which motion and ruling were as follows:

"Mr. Buchanan: On the record again, I move that the testimony of the witness with regard to membership of the Union at Crystal City, the Union of the Federation of Flat Glass Workers at Crystal City be stricken from the record.

* * * * * * *

Trial Examiner Dudley: Over objection, I admit that testimony for such value as it may have, and I will allow it to remain in the record. The motion is denied." (R. R. 248)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

22. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner sustaining the petitioner's objection to an offer of proof by the Crystal City Glass Workers' Union, which offer, objection and ruling were as follows:

By Mr. Hoffmeister:

"Q. Does the Crystal City Glass Workers Union keep records of its membership?

Mr. Holmes: Objected to as immaterial and as irrelevant.

Trial Examiner Dudley: I will sustain the objection.

Mr. Hoffmeister: If the Examiner please, I want to make an offer of proof at this time by this witness and other witnesses to prove by competent testimony that the Crystal City Glass Workers Union heretofore testified to, and whose, or its By-Laws have been offered in evidence as Intervenor's Exhibit No. 1, has a membership of approximately thirteen hundred employees out of an approximate total of sixteen hundred employees at the Crystal City Plant of the Pittsburgh Plate Glass Company, being Plant No. 9, who [fol. 571] desire to show by this witness and other witnesses that it be recognized as the appropriate Unit for collective bargaining in Plant No. 9 of the Pittsburgh Plate Glass Company at Crystal City, Missouri.

Mr. Holmes: I move to strike out, of course, the offer and statement.

Mr. Hoffmeister: And further, that they be the appropriate Unit for bargaining in Plant No. 9 at Crystal City, Missouri, of the Pittsburgh Plate Glass Company.

Mr. Holmes: I object to any evidence in support of that particular contention, and that the statement of the attorney representing this supposed organization be not admitted as any part or evidence in this particular proceeding.

Trial Examiner Dudley: I will allow the offer of proof to stand on the record as such. I will sustain the objection." (R. R. 313-314)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

23. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner admitting in evidence petitioner's Exhibit No. 11, as follows:

"Mr. Holmes: I present to you (addressing Mr. Buchanan and Mr. Hoffmeister) Petitioner's Exhibit No. 11, being affidavits of employees with respect to the signing of this exhibit that you have presented.

* * * * * * *

Mr. Holmes: I am asking to introduce Petitioner's Exhibit No. 11 for the purpose of the record.

Mr. Buchanan: I object to the admission of this testimony because it consists of a lot of averments by persons who are not subject to cross-examination by the parties to this proceeding. As to many of the affidavits, I object on the ground of irrelevancy and immateriality, as well as incompetency, and particularly because they make charges that cannot be introduced in this proceeding of unfair labor practices on the part of the Pittsburgh Plate Glass Company, which charges we have no opportunity to meet, without being confronted by the witnesses against us.

* * * * * * *

Trial Examiner Dudley: I will overrule the objection. It seems to me that it relates to the petition of the Intervenors. The exhibit is admitted * * *" (R. R. 328, 330)

[fol. 572] Upon this ruling the Ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

24. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness Maupin, which question, answer, motion and ruling were as follows:

"Q. And they were having these petitions signed on company property?

A. Yes, sir.

* * * * * * *

A. That is company property right outside the gate. I saw Mr. Purcell,—that was not on company property. I seen him on Sunday right in front of my house, and then I went out and asked the man if he knew what he signed and he said he didn't.

* * * * * * *

Mr. Buchanan: I move that it be stricken out.

Trial Examiner Dudley: Motion denied. We will let it stand." (R. R. 333)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." D. & C. 4)

25. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the

objection of the respondent to a question put to petitioner's witness Vaughn, which question, objection, ruling and answer were as follows:

"Q. How about Crystal City, Missouri. Do you know anything about interchange of employees between that plant and Ottawa?

A. There has been fellows sent from Crystal City to Ottawa and worked and then from Ottawa back to Crystal City.

* * * * * * *

[fol. 573] "Mr. Holmes: What I was trying to get at was whether or not the type of work being done in Crystal City in the way of making plate glass is any different from the making of plate glass in any other plant.

* * * * * * *

Mr. Buchanan: Objected to as incompetent.

* * * * * * *

Trial Examiner Dudley: I will allow him to answer the question. If you know; you said you didn't know, didn't you?" (R. R. 337, 338)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

26. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness Vaughn, which question, answer, motion and ruling were as follows:

"Trial Examiner Dudley: Did you get your information from any of the officials of the company of the Pittsburgh Plate Glass Company at Crystal City?

A. Yes.

Q. From whom did you get it?

A. From Mr. Conley.

Q. Who is he?

A. He is Department Superintendent of the Grinding Department.

Q. And he made the statement to you, did he?

A. Yes, sir.

* * * * * * *

Mr. Buchanan: I object further to the witness testifying to what Mr. Conley said to him without any evidence of Conley's agency on behalf of the company, and move that the answer be stricken out.

Trial Examiner Dudley: I will allow it for what it is worth." (R. R. 339)

[fol. 574] Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

27. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness Vaughn, which question, answer, motion and ruling were as follows:

"Q. Are you in a position to know the characteristics of the community down there as to home loving population that you have?

* * * * * * *

Q. What would you say as to that qualification, as to whether it is any different from any other community you have ever been in?

A. Well, it is more or less dominated——

Mr. Buchanan: I object to the answer as not responsive to the question, irrelevant and gratuitously offered by the witness in order to interject into these proceedings something which under unanimous ruling he knows, having been in the Court room, has no business in this case——

* * * * * * *

Mr. Buchanan: I ask that it be stricken out.

"By Mr. Holmes:

Q. Did you say that they were or were not?

A. Were not what?

Q. Home loving?

A. Yes, I said they were home loving. I said they were dominated.

Q. Dominated? What do you mean by that?

Mr. Buchanan: Objected to as irrelevant and immaterial.

Trial Examiner Dudley: I will let him answer.

A. Well, up until a year ago, I would say a man was afraid to speak his mind in regards to organized labor.

Mr. Buchanan: If your Honor please, I move that that answer be stricken out as irrelevant and immaterial. We [fol. 575] have no complaint case here; there is no charge against us, and we are not prepared to answer such allegations on the part of the witness.

Trial Examiner Dudley: The objection is overruled." (R. R. 339-341)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

28. The respondent excepts to the ruling of the Board denying its motion for an election, which motion and ruling are as follows:

"Mr. Buchanan: Mr. Examiner, the Pittsburgh Plate Glass Company by its Attorneys, J. Wesley McAfee and Smith, Buchanan & Ingersoll, hereby moves that the Board order an election by the production and maintenance employees of the company other than clerical employees not directly connected with production and supervisory employees employed at the plant of the company at Crystal City, Missouri, to determine whether such employees wish to be represented for the purpose of collective bargaining by the Federal of Flat Glass Workers of America." 2 (R. R. 251)

"During the hearing the Company moved that the Board conduct an election among its employees at Crystal City to determine their desires concerning representation. * * * For reasons hereinafter set forth these motions are hereby denied." (D. & C. 3-4)

29. The respondent excepts to the following finding of fact by the Board:

"Crystal City Glass Workers' Union, prior to the Board's Decision and Order of September 22, 1938, in Case No. C-778, disestablishing it as a labor organization, was an unaffiliated labor organization admitting to its membership only employees at the Crystal City Plant of the Company." (D. & C. 6)

30. The respondent excepts to the following finding of fact by the Board:

"The Company and the Crystal City Union, however, assert that either the employees at each plant in the flat glass division constitute separate units appropriate for the purposes of collective bargaining or the employees at all these plants except Crystal City constitute one appropriate unit and the employees at Crystal City—the only plant at which the Federation admittedly has not as members a majority of the employees—constitute another." (D. & C. 8)

[fol. 576] 31. The respondent excepts to the following finding of fact by the Board:

"From the very beginning it sought to represent all flat glass workers in all the Company's plants, including Crystal City." (D. & C. 9)

32. The respondent excepts to the following finding of fact by the Board:

"In 1934 the first organizer for the Federation, Robert McVay, came to Crystal City but had little success because of the intense hostility he encountered there, resulting in part from the activities of the Crystal City Union which had been founded in 1933." (D. & C. 9)

33. The respondent excepts to the following finding of fact by the Board:

"By the end of 1934 the Federation had about 12 members at Crystal City." (D. & C. 9)

34. The respondent excepts to the following finding of fact by the Board:

"On November 13, 1934, the Federation entered into a written agreement with the Company, covering all employees at all the plants of the Company, including Crystal City, who were Federation members." (D. & C. 9)

35. The respondent excepts to the following finding of fact by the Board:

"Not until January 20, 1937, did the Company for the first time insist that Crystal City be excluded from the agreement between it and the Federation on the ground that the Federation did not have as members a majority of the employees at this plant." (D. & C. 9)

36. The respondent excepts to the following finding of fact by the Board:

"Since then the Federation has intensified its activities at Crystal City, chartering a local there in April 1938 and obtaining approximately 463 members by September 1938." (D. & C. 9).

37. The respondent excepts to the following finding of fact by the Board:

"Since the failure to include Crystal City in the 1937 agreement after having done so on three previous occasions resulted from the demand of the Company and despite the Federation's protests, little weight can be given this omission as an argument against the unit sought by the Federation." (D. & C. 10)

[fol. 577] 38. The respondent excepts to the following finding of fact by the Board:

"Moreover, the Crystal City employees never attempted to bargain with the Company separately from the other plants." D. & C. 10)

39. The respondent excepts to the following finding of fact by the Board:

"• • • the Crystal City Union • • • at one time claimed over 1300 members." (D. & C. 10)

40. The respondent excepts to the following finding of fact by the Board:

"However, the Crystal City Union, by virtue of the Board's Decision and Order in Case No. C-778 • • • ceased to be able to function as a labor organization within the meaning of Section 2 (5) of the Act, and its existence as such at Crystal City then terminated." (D. & C. 10)

41. The respondent excepts to the following finding of fact by the Board:

"Since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial." (D. & C. 11)

42. The respondent excepts to the following finding of fact by the Board:

"Moreover, the prior existence of the Crystal City Union for over 3 years, until almost the day of the hearing in this proceeding, to a large degree explains the desire of the 1,300 Crystal City employees for a separate bargaining unit, as expressed in their petition, and such desires may well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by these employees." (D. & C. 11)

43. The respondent excepts to the following finding of fact by the Board:

"During this period the Company filled orders from Crystal City that normally it would have filled from its other plants." (D. & C. 11)

44. The respondent excepts to the following finding of fact by the Board:

[fol. 578] "Not only was this wage increase immediately granted to the Crystal City employees, but also, since the increase was retroactive and this plant had not closed during the strike, the Crystal City employees, because of the strike called by the Federation, received extra pay for the work they did to impede the success of the strike." (D. & C. 12)

45. The respondent excepts to the following finding of fact by the Board:

Under these circumstances, we cannot regard the wishes of the 1,300 employees at Crystal City as being decisive of the issue here presented." (D. & C. 12)

46. The respondent excepts to the following finding of fact by the Board:

"Nor are we impressed by the argument that the absence of any 'union' background differentiates Crystal City from the other plants. Since 1934 both the Federation and the Crystal City Union have been active at this plant." (D. & C. 12)

47. The respondent excepts to the following finding of fact by the Board:

"For reasons set forth in the previous paragraph, these factors do not seem controlling to us in view of all the circumstances of this case." (D. & C. 12)

48. The respondent excepts to the following finding of fact by the Board:

"On the other hand, we have carefully examined the entire record in this proceeding and are unable to find any substantial reason why the request of the Federation for a single bargaining unit for all the flat glass plants of the Company should not be granted as the best method of insuring to all employees the full benefit of their right to self-organization and collective bargaining under the Act." (D. & C. 12)

49. The respondent excepts to the following finding of fact by the Board:

"The Crystal City plant is an independent unit in the sense that there is almost no interchange of workers between it and the other plants, and that it neither receives nor sends materials to the other plants, but each of the other plants is equally independent of the rest" (D. & C. 13).

[fol. 579] 50. The respondent excepts to the following finding of fact by the Board:

"The wages, the working hours and conditions, and the manufacturing processes in effect at Crystal City differ very little, if at all, from those in effect at the Company's other flat glass plants." (D. & C. 13)

51. The respondent excepts to the following finding of fact by the Board:

"Such differences as exist are no greater than those found among the Company's other flat glass plants, and inasmuch as they have bargained together successfully since 1934 despite these differences, we are unable to see any reason why Crystal City should experience difficulty because of any such differences in bargaining together with the other flat glass plants of the Company." (D. & C. 13)

52. The respondent excepts to the following finding of fact by the Board:

"We find that the production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act." (D. & C. 14)

53. The respondent excepts to the following finding of fact by the Board:

"We are satisfied, under the circumstances of this case, that a majority of all the employees in the appropriate unit are members of the Federation." (D. & C. 15)

54. The respondent excepts to the following finding of fact by the Board:

"We find that the Federation has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of

all the employees in such unit for the purposes of collective bargaining, and we will so certify." (D. & C. 15)

[fol. 580] 55. The respondent excepts to the second conclusion of law of the Board, which is as follows:

"2. The production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the National Labor Relations Act." (D. & C. 15)

56. The respondent excepts to the third conclusion of law of the Board, which is as follows:

"3. Federation of Flat Glass Workers of America affiliated with C. I. O., is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9(a) of the National Labor Relations Act." (D. & C. 15-16)

57. The respondent excepts to the following Certification of Representatives by the Board:

"Certification of Representatives

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9(c) of the National Labor Relations Act, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

It Is Hereby Certified that Federation of Flat Glass Workers of America, affiliated with C. I. O., has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsyl-

vania, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9(a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment." (D. & C. 16)

58. The respondent excepts to the Decision and Certification of Representatives for the reason that Section 9(b) of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United [fol. 581] States, in violation of Article I, Section 1, of the Constitution.

59. The respondent excepts to the Decision and Certification of Representatives for the reason that said Decision and Certification deprives the respondent of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution.

60. The respondent excepts to the Decision and Certification of Representatives for the reason that said Decision and Certification is erroneous in that it was arrived at by depriving the Crystal City Glass Workers' Union of liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution.

61. The respondent excepts to the following ruling of the Trial Examiner in connection with the motion for leave to intervene by the Crystal City Glass Workers' Union joined in by the respondent:

"I shall not, however, permit the intervener to adduce evidence on matters decided by the decision of the Board in the previous C case reported in 8-NLRB-149, or in the previous R case reported in 10-NLRB-102." (C. R. 26)

62. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to the offer of proof made by the intervener during the course of the testimony of the intervener's witness Laiben, which offer and ruling were as follows:

"Mr. Kleeb: If the Trial Examiner please, because of the conditions placed upon the intervention by the Trial

Examiner, and because of counsel for the Board having placed a general objection to intervention, may I request an offer from Mr. Hoffmeister as to what he intends to prove by this witness, to determine whether he is remaining within the bounds of this condition, or whether he is going outside of it?

Mr. Hoffmeister: I will read an offer of proof at this time, if Mr. Trial Examiner please.

I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City [fol. 582] Glass Workers Union has a membership of approximately 1500 employees out of a total of approximately 1800 employees on the payroll at the present time at the Crystal City plant of the Pittsburgh Plate Glass Company.

That the members of this union being the majority of all the employees at the said plant, have designated and selected it as their representative for purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

That the members of this union are opposed to being represented for the purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

That the said union is not dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

That the Pittsburgh Plate Glass Company has not contributed financial or other support to it.

That the employees at the Crystal City plant have distinct interests from employees at other plants of the Pittsburgh Plate Glass Company.

That the representatives of the Crystal City Glass Workers Union bargained collectively for the members with that company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the said Union was not a party.

That since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the company in that case on July 22, 1938, and since the certification of the Federation of Flat Glass Workers of America as the representative for collective bargaining for employees at all of the flat glass plants of the company on

January 13, 1939 in case No. R-1058 before the Board, the membership of the Crystal City Glass Workers Union has increased in numbers.

That is my offer of proof.

Mr. Kleeb: Because of the offer of proof as stated, counsel for the Board objects to this witness being permitted to testify to any evidence tending to prove what was offered to be proven, for the reason that the question of support or fostering of this Crystal City Glass Workers Union by the respondent is not an issue in this case; secondly, because the offer as stated goes beyond the conditions placed upon intervention by the Trial Examiner; and thirdly, because the position of the Crystal City Glass Workers Union with reference to the appropriateness of the unit which is an issue here, was presented at the representation hearing held in this region in October of 1938, and that unit ques- [fol. 583] tion was determined by the Board in its decision in Case R-1058.

Mr. Lewis: Counsel for the Federation wishes to join with Mr. Kleeb in the objection.

Trial Examiner Powell: Are there any further remarks?

Mr. Buchanan: Mr. Examiner, it is the position of the company that the evidence offered on behalf of the Crystal City Glass Workers Union should be received.

Trial Examiner Powell: Objection of the counsel for the Board is sustained." (C. R. 30-33)

63. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to a question put to the intervener's witness Laiben, which question, objections and ruling were as follows:

"Q. (By Mr. Hoffmeister) Mr. Laiben, do you know how many members the Crystal City Glass Workers Union have at the present time?

Mr. Lewis: Object.

Mr. Kleeb: Objected to.

Trial Examiner Powell: Objection sustained." (C. R. 33)

64. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to a question put to the intervener's witness Laiben, which question, objections and ruling were as follows:

"Q. (By Mr. Hoffmeister) Has there been an increase in the membership of the Crystal City Glass Workers Union since July 22, 1938?

Mr. Lewis: Object.
Mr. Kleeb: I object to that as immaterial and irrelevant.
Trial Examiner Powell: Objection sustained." (C. R. 33)

65. The respondent excepts to the ruling of the Trial Examiner sustaining the objection of the Board to a question put to the intervener's witness Laiben, which question, objection and ruling were as follows:

[fol. 584] "Q. (By Mr. Hoffmeister) Now, since January 13, 1939, has there been an increase in the membership?

Mr. Kleeb: Objected to.
Trial Examiner Powell: Sustained." (C. R. 33)

66. The respondent excepts to the granting by the Trial Examiner of the motion of the Board to strike out the answer of the intervener's witness Laiben to a question put to him, which question, motion and ruling were as follows:

"Q. Since July 22, 1938 and, in particular, since the time of the last hearing in this case, has the Pittsburgh Plate Glass Company in any manner dominated or interfered with the administration of the Crystal City Glass Workers Union?
A. They have not.

• • • • • • •

Mr. Kleeb: I meant to object before he answered, and move to strike the answer.

• • • • • • •

Trial Examiner Powell: The answer may be stricken." (C. R. 35)

67. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections, and ruling were as follows:

"Mr. Buchanan: Mr. Examiner, in view of the fact that it has been suggested by counsel for the Board and for the Federation of Flat Glass Workers that the offer should

be split, I now make this offer on behalf of the Pittsburgh Plate Glass Company, namely:

To prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union has a membership of approximately 1500 employees out of a present total of approximately 1800 employees on the payroll at the Crystal City plant of the Pittsburgh Plate Glass Company.

Mr. Lewis: I object to that offer on behalf of the Federation of Flat Glass Workers.

* * * * * * *

Mr. Kleeb: Mr. Trial Examiner, with that explanation of counsel for the respondent as to the purpose, I will join counsel for the Federation of Flat Glass Workers and object to the relevancy and materiality of this testimony.

[fol. 585] Mr. Lewis: Mr. Examiner, I wish to renew my objection.

Trial Examiner Powell: Objection sustained." (C. R. 36-37, 39)

68. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the members of the Crystal City Glass Workers Union, some 1500 in number, being a majority of all the employees at the Crystal City plant, have designated and selected that union as their representative for collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

Mr. Kleeb: Object.

Mr. Lewis: Mr. Examiner, I would like to object for the Federation, as immaterial.

Mr. Kleeb: I object as immaterial.

Trial Examiner Powell: Objection sustained." (C. R. 39)

69. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and rulings were as follows:

"Mr. Buchanan: I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the members of the Crystal City Glass Workers Union are opposed to being represented for purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

Mr. Lewis: On behalf of the 5700 members of the Federation of Flat Glass Workers, employees of the Pittsburgh Plate Glass Company, I object to that.

Mr. Kleeb: I object, immaterial.

Mr. Buchanan: If the Examiner please, on the form of the objection, I call your attention to the fact that the record is bare as to the membership of the Federation of Flat Glass Workers, and I trust that your Honor on ruling will give no weight to the assertion there are 5700 members of the Federation among the employees of the Pittsburgh Plate Glass Company.

Trial Examiner Powell: Objection sustained." (C. R. 40)

[fol. 586] 70. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union is not dominated, nor was its formation interfered with nor has its administration been interfered with, by the Pittsburgh Plate Glass Company.

Mr. Kleeb: Objected to as immaterial and irrelevant.

Mr. Lewis: Object to.

Trial Examiner Powell: Objection sustained." (C. R. 40-41)

71. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: I offer to prove that since the hearing, in the certification case on October 13 and 14, 1938, the Crystal City Glass Workers Union has not been dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

Mr. Lewis: I object to that as immaterial.

* * * * * * *

Mr. Kleeb: Objected to as immaterial and irrelevant.
Trial Examiner Powell: Objection sustained." (C. R. 41)

72. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: Mr. Examiner, I make the same offer as that last made, substituting the date 'July 22, 1938', the date of the stipulation in the complaint case in the Fourteenth Region.

Mr. Lewis: Objected to as immaterial.

Mr. Kleeb: And I object for the reason aforesaid.

[fol. 587] Trial Examiner Powell: Objection sustained." (C. R. 41)

73. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: Mr. Examiner, I make the same offer, substituting the date 'September 22, 1938', being the date of the order of the Board in the complaint case on the stipulation, requiring the Pittsburgh Plate Glass Company, among other things, to cease and desist from:

'In any manner dominating or interfering with the administration of the Crystal City Glass Workers Union, or any other organization of its employees, or contributing aid or support to said organization, or any other labor organization of its employees; from recognizing or dealing with Crystal City Glass Workers Union as a labor organization, or any person or group, of persons purporting to represent said organization.'

Mr. Kleeb: Objected to, same reason.

Mr. Lewis: Same objection.

Trial Examiner Powell: Objection sustained." (C. R. 41-42)

74. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and rulings were as follows:

"Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, by competent

testimony, that the Crystal City Glass Workers Union bargained collectively for its members with the Pittsburgh Plate Glass Company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the Crystal City Glass Workers Union was not a party.

Mr. Lewis: I object to that as immaterial, irrelevant.

Mr. Kleeb: I join the objection.

Trial Examiner Powell: Objection sustained." (C. R. 42)

[fol. 588] 75. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: I offer to prove by the witness on the stand, and other witnesses, and records, by competent testimony, that since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the Pittsburgh Plate Glass Company in the case C-778 in the Fourteenth Region on July 22, 1938, the membership of the Crystal City Glass Workers Union has increased by 448.

Mr. Lewis: I object to that as immaterial.

Mr. Kleeb: I join that objection.

Trial Examiner Powell: Objection sustained." (C. R. 42-43)

76. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

"Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, and records, by competent testimony, that of the 448 members who have joined the Crystal City Glass Workers Union since July 22, 1938, 263 have become members of that union since January 13, 1939, the date of the certification of the Federation of Flat Glass Workers of America as the representative for collective bargaining of employees of certain classes at all the flat glass plants of the Pittsburgh Plate Glass Company.

Mr. Lewis: Objection to that as immaterial.

Mr. Kleeb: I join in the objection.

* * * * * * *

Trial Examiner Powell: Objection sustained." (C. R. 43, 44)

77. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer and objections were as follows:

[fol. 589] "Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, and by competent testimony, that not only since the stipulation previously referred to of July 22, 1938, but since the decision of the Board in the certification case on January 13, 1939, the Crystal City Glass Workers Union has continued to be an active organization for the purposes for which it was chartered and shown by its by-laws in evidence, though its activity in the matter of collective bargaining has been restricted by the stipulation made in the case to which it was not a party.

Mr. Lewis: Object to that as immaterial.

Mr. Kleeb: I object to that as immaterial and irrelevant." (C. R. 44-45)

78. The respondent excepts to the following finding of fact in the Intermediate Report of the Trial Examiner:

"Respondent further contended that the Crystal City Glass Workers' Union was not permitted to introduce evidence in regard to the appropriate bargaining unit in the previous hearing (Case No. R-1058) and that, therefore, the Crystal City Glass Workers' Union was denied a hearing in said proceeding. Aside from the fact that this would appear to be no concern of respondent, it is apparent from the decision that the Board did, in fact, consider the Crystal City Union's contention, * * *" (I. R. 5)

79. The respondent excepts to the first conclusion in the Intermediate Report of the Trial Examiner, which is as follows:

"1. Respondent, by refusing to bargain collectively with Federation of Flat Glass Workers of America, and by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as set forth in the above findings of fact, has engaged in and is engaging in an unfair

labor practice affecting commerce within the meaning of Section 8 (1) and Section 2 (6) and (7) of the National Labor Relations Act." (I. R. 7)

80. The respondent excepts to the second conclusion in the Intermediate Report of the Trial Examiner, which is as follows:

"2. Respondent, by refusing to bargain collectively with Federation of Flat Glass Workers of America, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (5) and Section 2 (6) and (7) of the National Labor Relations Act." (I. R. 7)

[fol. 590] 81. The respondent excepts to the first recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

"Wherefore, the undersigned recommends that:

1. Respondent cease and desist from interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist the Federation of Flat Glass Workers of America, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection." (I. R. 7)

82. The respondent excepts to the second recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

"Wherefore, the undersigned recommends that:

* * * * * * *

2. Respondent cease and desist from refusing to bargain collectively with Federation of Flat Glass Workers of America, the representative of the production and maintenance employees, as hereinabove more fully set forth." (I. R. 7)

83. The respondent excepts to the third recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

"Wherefore, the undersigned recommends that:

* * * * * * *

3. In order to effectuate the policies of the Act, respondent take the following affirmative action:

(a) Upon request, bargain collectively with the Federation of Flat Glass Workers of America as the exclusive representative of the respondent's production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production and supervisory employees at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

[fol. 591] (b) Post immediately in conspicuous places in its plants at Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, and maintain for a period of at least sixty (60) consecutive days, notices to its employees, stating (1) that respondent will cease and desist in the manner aforesaid; (2) that respondent will, upon request, bargain with the Federation of Flat Glass Workers of America, as exclusive representative of respondent's production and maintenance employees in said plants, with respect to rates of pay, wages, hours of employment, and other conditions of employment;

(c) File with the Regional Director for the Sixth Region on or before ten (10) days from the receipt of this Intermediate Report, a report in writing setting forth in detail the manner and form in which it has complied with the foregoing requirements." (I. R. 7-8)

84. The respondent excepts to the following recommendation in the Intermediate Report of the Trial Examiner:

"It is further recommended that, unless on or before ten (10) days from the receipt of the Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the matter be referred forthwith to the National Labor Rela-

tions Board and that said Board issue an order requiring respondent to take the action aforesaid." (I. R. 8)

85. The respondent excepts to the Intermediate Report of the Trial Examiner for the reason that Section 9 (b) of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United States, in violation of Article I, Section 1, of the Constitution.

86. The respondent excepts to the Intermediate Report of the Trial Examiner for the reason that said Intermediate Report deprives the respondent of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution.

87. The respondent excepts to the Intermediate Report of the Trial Examiner for the reason that said Intermediate Report is erroneous in that it was arrived at by depriving [fol. 592] the Crystal City Glass Workers' Union of liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution.

Smith, Buchanan & Ingersoll, Igoe, Carroll, Keefe & McAfee, Attorneys for Respondent, Pittsburgh Plate Glass Company.

[fol. 593] BEFORE THE NATIONAL LABOR RELATIONS BOARD

Case No. VI-C-319

[Title omitted]

RESPONDENT'S REQUEST FOR PERMISSION TO FILE BRIEF AND TO MAKE ORAL ARGUMENT

And now, to-wit, March 29, 1939, the respondent, Pittsburgh Plate Glass Company, by its attorneys, hereby requests permission from the National Labor Relations Board to file a brief in the above entitled case and to make oral argument thereon at such time or times as the Board may determine.

(s) Smith, Buchanan & Ingersoll, Igoe, Carroll, Keefe & McAfee, Attorneys for Respondent, Pittsburgh Plate Glass Company.

[fol. 594] Copy

30 March 1939.

Messrs. Smith, Buchanan & Ingersoll
Union Trust Bldg.
Pittsburgh, Pa.

Re: Pittsburgh Plate Glass Co.
(Formerly VI-C-319)
Now Case No. C-1222

Dear Sirs:

This will acknowledge receipt of your letter of March 29, with enclosed original and three copies of Exceptions to the Intermediate Report of the Trial Examiner in the above noted case, duly filed on behalf of the respondent therein.

Your request for oral argument has been referred to the Board, and you will be duly advised of the action taken thereon. In the meanwhile, you are hereby granted until April 29 for the filing of brief. This privilege is granted all parties to the proceeding.

Very truly yours, Estelle S. Frankfurter, Administrative Assistant.

CC to: Igoe, Carroll, Keefe & McAfee, Boatmen's Bank Bldg., St. Louis, Mo. Henry Baum, 85 E. Gay St., Columbus, Ohio. Fred J. Hoffmeister, 208 N. Broadway, St. Louis, Mo. Alfonse L. Laiben, Crystal City, Mo. N. L. R. B., 6th Region.

[fol. 595] Before National Labor Relations Board

Case No. VI-C-319

[Title omitted]

Exceptions of Intervenor Crystal City Glass Workers Union

On this 29th day of March, 1939, comes the Intervenor, Crystal City Glass Workers Union, by Fred J. Hoffmeister, its attorney, and upon the entire record in the above case, excepts to the following rulings, findings, recommendations, decision and certification, to-wit:

(1) Intervenor excepts to the rulings of the Board affirming the rulings of the Trial Examiner, denying Intervenor's motions, overruling Intervenor's objections to the admission of evidence, and sustaining petitioner's objections to the admission of evidence, said rulings of the Board being as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (p. 4)

(2) Intervenor excepts to the ruling of the Board, affirming the ruling of the Trial Examiner sustaining the petitioner's objection to an offer of proof by the Crystal City Glass Workers Union, which offer, objection and ruling were as follows:

"Q. (By Mr. Hoffmeister) Does the Crystal City Glass Workers Union keep records of its membership?

Mr. Holmes: Objected to as immaterial and as irrelevant.

Trial Examiner Dudley: I will sustain the objection.

[fol. 596] Mr. Hoffmeister: If the Examiner please, I want to make an offer of proof at this time by this witness and other witnesses to prove by competent testimony that the Crystal City Glass Workers Union heretofore testified to, and whose, or its By-Laws have been offered in evidence as Intervenor's Exhibit No. 1, has a membership of approximately thirteen hundred employees out of an approximate total of sixteen hundred employees at the Crystal City Plant of the Pittsburgh Plate Glass Company, being Plant No. 9, who desire to show by this witness and other witnesses that it be recognized as the appropriate Unit for collective bargaining in Plant No. 9 of the Pittsburgh Plate Glass Company at Crystal City, Missouri.

Mr. Holmes: I move to strike out, of course, the offer and statement.

Mr. Hoffmeister: And further, that they be the appropriate Unit for bargaining in Plant No. 9 at Crystal City, Missouri, of the Pittsburgh Plate Glass Company.

Mr. Holmes: I object to any evidence in support of that particular contention, and that the statement of the attorney

representing this supposed organization be not admitted as any part or evidence in this particular proceeding.

Trial Examiner Dudley: I will allow the offer of proof to stand on the record as such. I will sustain the objection." (R. R. 313-314)

Upon this ruling the ruling of the Board was as follows:

"During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed." (D. & C. 4)

(3) Intervenor excepts to the following finding of fact by the Board:

"Crystal City Glass Workers' Union, prior to the Board's Decision and Order of September 22, 1938, in Case No. C-778, disestablishing it as a labor organization, was an unaffiliated labor organization admitting to its membership only employees at the Crystal City Plant of the Company." (D. & C. 6)

(4) Intervenor excepts to the following finding of fact by the Board:

"The Company and the Crystal City Union, however, assert that either the employees at each plant in the flat glass division constitute separate units appropriate for the purposes of collective bargaining or the employees at all these plants except Crystal City constitute one appropriate unit and the employees at Crystal City—the only plant at which the Federation admittedly has not as members a majority of the employees—constitute another." (D. & C. 8)

[fol. 597] (5) Intervenor excepts to the following finding of fact by the Board:

"From the very beginning it sought to represent all flat glass workers in all the Company's plants, including Crystal City." (D. & C. 9)

(6) Intervenor excepts to the following finding of fact by the Board:

"In 1934 the first organizer for the Federation, Robert McVay, came to Crystal City but had little success because

of the intense hostility he encountered there, resulting in part from the activities of the Crystal City Union which had been founded in 1933." (D. & C. 9)

(7) Intervenor excepts to the following finding of fact by the Board:

"By the end of 1934 the Federation had about 12 members at Crystal City." (D. & C. 9)

(8) Intervenor excepts to the following finding of fact by the Board:

"On November 13, 1934, the Federation entered into a written agreement with the Company, covering all employees at all the plants of the Company, including Crystal City, who were Federation members." (D. & C. 9)

(9) Intervenor excepts to the following finding of fact by the Board:

"Not until January 20, 1937, did the Company for the first time insist that Crystal City be excluded from the agreement between it and the Federation on the ground that the Federation did not have as members a majority of the employees at this plant." (D. & C. 9)

(10) Intervenor excepts to the following finding of fact by the Board:

"Since then the Federation has intensified its activities at Crystal City, chartering a local there in April 1938 and obtaining approximately 463 members by September 1938." (D. & C. 9)

(11) Intervenor excepts to the following finding of fact by the Board:

"Since the failure to include Crystal City in the 1937 agreement after having done so on three previous occasions resulted from the demand of the Company and despite the Federation's protests, little weight can be given this omission as an argument against the unit sought by the Federation." (D. & C. 10)

[fol. 598] (12) Intervenor excepts to the following finding of fact by the Board:

"Moreover, the Crystal City employees never attempted to bargain with the Company separately from the other plants." (D. & C. 10)

(13) Intervenor excepts to the following finding of fact by the Board:

"* * * the Crystal City Union * * * at one time claimed over 1300 members." (D. & C. 10)

(14) Intervenor excepts to the following finding of fact by the Board:

"However, the Crystal City Union, by virtue of the Board's Decision and Order in Case No. C-778 * * * ceased to be able to function as a labor organization within the meaning of Section 2(5) of the Act, and its existence as such at Crystal City then terminated." (D. & C. 10)

(15) Intervenor excepts to the following finding of fact by the Board:

"Since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial." (D. & C. 11)

(16) Intervenor excepts to the following finding of fact by the Board:

"Moreover, the prior existence of the Crystal City Union for over 3 years, until almost the day of the hearing in this proceeding, to a large degree explains the desire of the 1,300 Crystal City employees for a separate bargaining unit, as expressed in their petition, and such desires may well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by those employees." (D. & C. 11)

(17) Intervenor excepts to the following finding of fact by the Board:

"During this period the Company filled orders from Crystal City that normally it would have filled from its other plants." (D. & C. 11)

(18) Intervenor excepts to the following finding of fact by the Board:

[fol. 599] "Not only was this wage increase immediately granted to the Crystal City employees, but also, since the increase was retroactive and this plant had not closed during the strike, the Crystal City employees, because of the

strike called by the Federation, received extra pay for the work they did to impede the success of the strike." (D. & C. 12)

(19) Intervenor excepts to the following finding of fact by the Board:

"Under these circumstances, we cannot regard the wishes of the 1,300 employees at Crystal City as being decisive of the issue here presented." (D. & C. 12)

(20) Intervenor excepts to the following finding of fact by the Board:

"Nor are we impressed by the argument that the absence of any 'union' background differentiates Crystal City from the other plants. Since 1934 both the Federation and the Crystal City Union have been active at this plant." (D. & C. 12)

(21) Intervenor excepts to the following finding of fact by the Board:

"Moreover, the very inexperience of Crystal City employees in collective bargaining is a cogent reason for giving them the benefit and use of the services of the more experienced employees at the other plants by having them bargain together with such employees."

(22) Intervenor excepts to the following finding of fact by the Board:

"For reasons set forth in the previous paragraph, these factors do not seem controlling to us in view of all the circumstances of this case." (D. & C. 12)

(23) Intervenor excepts to the following finding of fact by the Board:

"On the other hand, we have carefully examined the entire record in this proceeding and are unable to find any substantial reason why the request of the Federation for a single bargaining unit for all the flat glass plants of the Company should not be granted as the best method of insuring to all employees the full benefit of their right

to self-organization and collective bargaining under the Act." (D. & C. 12)

(24) Intervenor excepts to the following finding of fact by the Board:

[fol. 600] "The Crystal City plant is an independent unit in the sense that there is almost no interchange of workers between it and the other plants, and that it neither receives nor sends materials to the other plants, but each of the other plants is equally independent of the rest." (D. & C. 13)

(25) Intervenor excepts to the following finding of fact by the Board:

"The wages, the working hours and conditions, and the manufacturing processes in effect at Crystal City, differ very little, if at all, from those in effect at the Company's other flat glass plants." (D. & C. 13)

(26) Intervenor excepts to the following finding of fact by the Board:

"Such differences as exist are no greater than those found among the Company's other flat glass plants, and inasmuch as they have bargained together successfully since 1934 despite these differences, we are unable to see any reason why Crystal City should experience difficulty because of any such differences in bargaining together with the other flat glass plants of the Company." (D. & C. 13)

(27) Intervenor excepts to the following finding of fact by the Board:

"We find that the production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to

collective bargaining and otherwise effectuate the policies of the Act." (D. & C. 14)

(28) Intervenor excepts to the following finding of fact by the Board:

"We are satisfied, under the circumstances of this case, that a majority of all the employees in the appropriate unit are members of the Federation." (D. & C. 15)

(29) Intervenor excepts to the following finding of fact by the Board:

"We find that the Federation has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative [fol. 601] of all the employees in such unit for the purpose of collective bargaining, and we will so certify." (D. & C. 15)

(30) Intervenor excepts to the second conclusion of law of the Board, which is as follows:

"2. The production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the National Labor Relations Act." (D. & C. 15)

(31) Intervenor excepts to the third conclusion of law of the Board, which is as follows:

"3. Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9(a) of the National Labor Relations Act." (D. & C. 15-16)

(32) Intervenor excepts to the following Certification of Representatives by the Board:

"Certification of Representatives

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9(c) of the National Labor Relations Act, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

It is Hereby Certified that Federation of Flat Glass Workers of America, affiliated with C. I. O., has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9(a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment." (D. & C. 16)

[fol. 602] (33) Intervenor excepts to the Decision and Certification of Representatives for the reason that Section 9(b) of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United States, in violation of Article I, Section 1, of the Constitution.

(34) Intervenor excepts to the Decision and Certification of Representatives for the reason that said Decision and Certification deprives Intervenor of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution.

(35) Intervenor excepts to the following ruling of the Trial Examiner in connection with the motion for leave to intervene by the Crystal City Glass Workers' Union joined in by the respondent:

"I shall not, however, permit the intervenor to adduce evidence on matters decided by the decision of the Board in

the previous C case reported in 8-NLRB-149, or in the previous R case reported in 10-NLRB-102." (C. R. 26)

(36) Intervenor excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to the offer of proof made by the intervenor during the course of the testimony of the intervenor's witness Laiben, which offer and ruling were as follows:

"Mr. Kleeb: If the Trial Examiner please, because of the conditions placed upon the intervention by the Trial Examiner, and because of counsel for the Board having placed a general objection to intervention, may I request an offer from Mr. Hoffmeister as to what he intends to prove by this witness, to determine whether he is remaining within the bounds of this condition, or whether he is going outside of it?

Mr. Hoffmeister: I will read an offer of proof at this time, if Mr. Trial Examiner please.

I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers' Union has a membership of approximately 1500 employees out of a total of approximately 1800 employees on the payroll at the present time at the Crystal City plant of the Pittsburgh Plate Glass Company.

That the members of this union being the majority of [fol. 603] all the employees at the said plant, have designated and selected it as their representative for purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

That the members of this union are opposed to being represented for the purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the C. I. O.

That the said union is not dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

That the Pittsburgh Plate Glass Company has not contributed financial or other support to it.

That the employees at the Crystal City plant have distinct interests from employees at other plants of the Pittsburgh Plate Glass Company.

That the representatives of the Crystal City Glass Workers Union bargained collectively for the members with that

company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the said union was not a party.

That since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the company in that case on July 22, 1938, and since the certification of the Federation of Flat Glass Workers of America as the representative for collective bargaining for employees at all of the flat glass plants of the company on January 13, 1939, in case No. R-1058 before the Board, the membership of the Crystal City Glass Workers Union has increased in numbers.

That is my offer of proof.

Mr. Kleeb: Because of the offer of proof as stated, counsel for the Board objects to this witness being permitted to testify to any evidence tending to prove what was offered to be proven, for the reason that the question of support or fostering of this Crystal City Glass Workers Union by the respondent is not an issue in this case; secondly, because the offer as stated goes beyond the conditions placed upon intervention by the Trial Examiner; and thirdly, because the position of the Crystal City Glass Workers Union with reference to the appropriateness of the unit which is an issue here, was presented at the representation hearing held in this region in October of 1938, and that unit question was determined by the Board in its decision in Case R-1058.

Mr. Lewis: Counsel for the Federation wishes to join with Mr. Kleeb in the objection.

Trial Examiner Powell: Are there any further remarks?

Mr. Buchanan: Mr. Examiner, it is the position of the company that the evidence offered on behalf of the Crystal City Glass Workers Union should be received.

[fol. 604]. Trial Examiner Powell: Objection of the counsel for the Board is sustained." (C. R. 30-33)

(37) Intervenor excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to a question put to the intervenors' witness Laiben, which question, objections and ruling were as follows:

"Q. (By Mr. Hoffmeister) Mr. Laiben, do you know how many members the Crystal City Glass Workers Union have at the present time?

Mr. Lewis: Object.

Mr. Kleeb: Objected to.

Trial Examiner Powell: Objection sustained." (C. R. 33)

(38) Intervenor excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to a question put to the intervenor's witness Laiben, which question, objections and ruling were as follows:

"Q. (By Mr. Hoffmeister) Has there been an increase in the membership of the Crystal City Glass Workers Union since July 22, 1938?

Mr. Lewis: Object.

Mr. Kleeb: I object to that as immaterial and irrelevant.

Trial Examiner Powell: Objection sustained." (C. R. 33)

(39) Intervenor excepts to the ruling of the Trial Examiner sustaining the objection of the Board to a question put to the intervenor's witness Laiben, which question, objection and ruling were as follows:

"Q. (By Mr. Hoffmeister) Now, since January 13, 1939, has there been an increase in the membership?

Mr. Kleeb: Objected to.

Trial Examiner Powell: Sustained." (C. R. 33)

(40) Intervenor excepts to the granting by the Trial Examiner of the motion of the Board to strike out the answer of the Intervenor's witness Laiben to a question put to him, which question, motion and ruling were as follows:

[fol. 605] "Q. Since July 22, 1938, and, in particular, since the time of the last hearing in this case, has the Pittsburgh Plate Glass Company in any manner dominated or interfered with the administration of the Crystal City Glass Workers Union?

A. They have not.

* * * * * * *

Mr. Kleeb: I meant to object before he answered, and move to strike the answer.

* * * * * * *

Trial Examiner Powell: The answer may be stricken." (C. R. 35)

(41) Intervenor excepts to the following finding of fact in the Intermediate Report of the Trial Examiner:

"Respondent further contended that the Crystal City Glass Workers' Union was not permitted to introduce evidence in regard to the appropriate bargaining unit in the previous hearing (Case No. R-1058) and that therefore, the Crystal City Glass Workers' Union was denied a hearing in said proceeding. Aside from the fact that this would appear to be no concern of respondent, it is apparent from the decision that the Board did, in fact, consider the Crystal City Union's contentions, * * * (I. R. 5).

(42) Intervenor excepts to the first conclusion in the Intermediate Report of the Trial Examiner, which is as follows:

"1. Respondent, by refusing to bargain collectively with Federation of Flat Glass Workers of America, and by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (1) and Section 2 (6) and (7) of the National Labor Relations Act." (I. R. 7)

(43) Intervenor excepts to the second conclusion in the Intermediate Report of the Trial Examiner, which is as follows:

"2. Respondent, by refusing to bargain collectively with Federation of Flat Glass Workers of America, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8 (5) and Section 2 (6) and (7) of the National Labor Relations Act." (I. R. 7)

(44) Intervenor excepts to the first recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

"Wherefore, the undersigned recommends that:

[fol. 606] 1. Respondent cease and desist from interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist the Federation of Flat Glass Workers of America,

or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection." (I. R. 7)

(45) Intervenor excepts to the second recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

"Wherefore, the undersigned recommends that:

* * * * * * *

2. Respondent cease and desist from refusing to bargain collectively with Federation of Flat Glass Workers of America, the representative of the production and maintenance employees, as hereinabove more fully set forth." (I. R. 7)

(46) Intervenor excepts to the third recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

"Wherefore, the undersigned recommends that:

* * * * * * *

3. In order, to effectuate the policies of the Act, respondent take the following affirmative action:

(a) Upon request, bargain collectively with the Federation of Flat Glass Workers of America as the exclusive representative of the respondent's production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production and supervisory employees at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post immediately in conspicuous places in its plants at Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, and maintain for

a period of at least sixty (60) consecutive days, notices to its employees, stating (1) that respondent will cease and desist in the manner aforesaid; (2) that respondent will, upon request bargain with the Federation of Flat Glass Workers of America, as exclusive representatives of respondent's production and maintenance employees in said plants, with respect to rates of pay, wages, hours of employment, and other conditions of employment;

(c) File with the Regional Director for the Sixth Region on or before ten (10) days from the receipt of this Intermediate Report, a report in writing setting forth in detail [fol. 607] the manner and form in which it has complied with the foregoing requirements." (I. R. 7-8)

(47) Intervenor excepts to the following recommendation in the Intermediate Report of the Trial Examiner:

"It is further recommended that, unless on or before ten (10) days from the receipt of the Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the matter be referred forthwith to the National Labor Relations Board and that said Board issue an order requiring respondent to take the action aforesaid." (I. R. 8)

(48) Intervenor excepts to the Intermediate Report of the Trial Examiner for the reason that Section 9 (b) of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United States, in violation of Article I, Section 1, of the Constitution.

(49) Intervenor excepts to the Intermediate Report of the Trial Examiner for the reason that said Intermediate Report deprives Intervenor of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution.

(S.) Fred J. Hoffmeister, Attorney for Intervenor, Crystal City Glass Workers Union, 208 N. Broadway, St. Louis, Mo.

[fol. 608] BEFORE NATIONAL LABOR RELATIONS BOARD

Case No. VI-C-319

[Title omitted]

REQUEST FOR LEAVE TO FILE BRIEF AND MAKE ORAL ARGUMENT

Comes now Crystal City Glass Workers Union, Intervenor, in the above entitled cause, and requests leave to file its brief and make oral argument before this Honorable Board in said cause.

Crystal City Glass Workers Union, by (S.) Fred J. Hoffmeister, 208 N. Broadway, St. Louis, Missouri, Its Attorney.

[fol. 609] Copy

3 April 1939.

Fred J. Hoffmeister, Esquire, 1305 Federal Commerce Trust Bldg., St. Louis, Missouri:

Re: Pittsburgh Plate Glass Co.
(Formerly VI-C-319)
Now Case No. C-1222

DEAR SIR:

This will acknowledge receipt of your letter of March 30, with enclosed request for oral argument and permission to file brief on behalf of the intervenor in the above noted case.

Your request for oral argument has been referred to the Board, and you will be duly advised of the action taken thereon. In the meanwhile, you are hereby granted until May 3 for the filing of brief. This privilege is granted all parties to the proceeding.

Very truly yours, Estelle S. Frankfurter, Administrative Assistant.

CC to: Smith, Buchanan & Ingersoll, 1025 Union Trust Bldg., Pittsburgh, Pa. Igoe, Carroll, Keefe and McAfee, Boatmen's Bank Bldg., St. Louis, Mo. Henry Baum, 85 E. Gay St., Columbus, Ohio. Alfonse L. Laiben, Crystal City, Mo. N. L. R. B., 6th Region.

[fol. 610] NATIONAL LABOR RELATIONS BOARD,

WASHINGTON, D. C.

Case No. C-1222

[Title omitted]

NOTICE OF HEARING

Please Take Notice that pursuant to authority vested in the National Labor Relations Board under an Act of Congress (49 Stat. 449) a hearing will be held before the National Labor Relations Board on Tuesday, May 9, 1939 at 2:00 p. m. or as soon thereafter as the Board may hear you, in Room 326, Shoreham Building, Fifteenth and H Streets, N. W., Washington, D. C., for the purpose of oral argument in the above entitled matter. Argument will be limited to one-half hour for each party, and you are hereby advised that in view of the Board's docket no request for additional time made at the hearing will be granted.

You may appear and be heard if you so desire.

Dated, Washington, D. C., April 12, 1939.

(s) Nathan Witt, Secretary.

[fols. 611-616] Notices of postponement of hearing omitted in printing.

[fol. 617] BEFORE THE NATIONAL LABOR RELATIONS BOARD

Case No. C-1222

[Title omitted]

NOTICE OF HEARING

Please take notice that the hearing for the purpose of oral argument previously scheduled in this matter for Friday, May 26, 1939, at 2:00 p. m., in Room 326, Shoreham Building, Fifteenth and H. Streets, N. W., Washington, D. C., and thereafter postponed indefinitely, is hereby scheduled for Friday, June 2, 1939, at 10:00 a. m. or as soon thereafter as the Board may hear you, at the same place.

Dated, Washington, D. C., May 25, 1939.

By direction of the Board:

(s) Nathan Witt, Secretary. (Seal.)

[fol. 618] Telegram

Official Business—Government Rates

From: ALK:ICM
Bureau: ——
Chg. Appropriation: N L R B

May 25, 1939

Pittsburgh Plate Glass Company, Grant Building, Pittsburgh, Pa.

Smith, Buchanan & Ingersoll, Att. John G. Buchanan, Wm. H. Doyle, Jr. and Donald L. McCaskey, 1025 Union Trust Bldg., Pittsburgh, Pa.

Igoe, Carroll, Keefe & McAfee, Boatmen's Bank Bldg., St. Louis, Missouri.

Henry Baum, 85 East Gay Street, Columbus, Ohio.

W. T. Lewis and H. B. Holmes, 35 East Gay Street, Columbus, Ohio.

Alfonse L. Laiben, Crystal City, Missouri.

Fred J. Hoffmeister, 208 N. Broadway, 1305 Federal Commerce Trust Building, St. Louis, Missouri.

Charles T. Douds, Director Sixth Region, National Labor Relations Board, Post Office Building, Pittsburgh, Pennsylvania.

Re Pittsburgh Plate Glass Company, Case C-1222. Hearing for oral argument will be held on Friday, June 2, 1939, at ten a. m. or as soon thereafter as the Board may hear you, at the same place.

Nathan Witt, Secretary, National Labor Relations Board.

[fol. 619] Copy

Western Union

HA317 24 NL 1 Extra=Columbus Ohio 25

1939 May 25 PM 6 10

Nathan Witt, Secy, National Labor Relations Board Wash D C

Re Pittsburgh Plate Glass Company Case C-1222 former engagements. Impossible to attend June Second hearing. Want continuance to June 16th. Please advise.

H B Holmes Atty Federation of Flat Glass Workers.

C-1222 16.

[fols. 620-621] Notice of postponement of hearing omitted in printing.

[fol. 622] Before the National Labor Relations Board

Case No. C-1222

In the Matter of Pittsburgh Plate Glass Company

and

Federation of Flat Glass Workers of America, Affiliated With the C. I. O.

Room 442, Shoreham Building, Washington, D. C.

A hearing was held in the above matter for the purpose of Oral Argument at the above place on June 8, 1939 at 2:00 p. m.

Before: J. Warren Madden, Chairman; Edwin S. Smith, Member; William M. Leiserson, Member.

Appearances: Robert Kramer, of Counsel to the Board. For the Company: John G. Buchanan, 1025 Union Trust Bldg., Pittsburgh, Pa. Donald L. McCaskey, 1025 Union Trust Bldg., Pittsburgh, Pa. For the Union: H. B. Holmes, 35 Gay Street, Columbus, Ohio. For the Intervenor: Fred J. Hoffmeister, 208 N. B'way, 1305 Federal Commerce Bldg., St. Louis, Mo.

[fol. 623] BEFORE THE NATIONAL LABOR RELATIONS BOARD

In the Matter of PITTSBURGH PLATE GLASS COMPANY and FEDERATION OF FLAT GLASS WORKERS OF AMERICA, AFFILIATED WITH C. I. O.

Case No. C-1222—Decided September 19, 1939

Glass Manufacturing Industry—Unit Appropriate for Collective Bargaining: production and maintenance employees, excluding window glass cutters, supervisory employees, and clerical employees not directly connected with production, at flat glass plants of Company in six cities; unit found appropriate by Board in previous representation proceeding adhered to—Representatives: proof of choice; majority of union; findings of Board in prior representation proceeding adhered to—Collective Bargaining: refusal to bargain admitted by Company; refusal not justified by Company's denial of appropriateness of unit proposed by union where Board had found that unit appropriate in immediately preceding representation proceeding; Company ordered, upon request, to bargain with union.

Mr. Robert H. Kleeb, for the Board.

Smith, Buchanan & Ingersoll, by Mr. John G. Buchanan, Mr. William J. Kyle, Jr., and Mr. Donald L. McCaskey, of Pittsburgh, Pa., and Igoe, Carroll, Keefe and McAfee, by Mr. J. Wesley McAfee, of St. Louis, Mo., for the respondent.

Mr. H. B. Holmes and Mr. W. T. Lewis, of Columbus, Ohio, for the Federation.

Mr. Fred J. Hoffmeister, of St. Louis, Mo., for the Crystal City Union.

Mr. Robert Kramer, of counsel to the Board.

Decision and Order

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by Federation of Flat Glass Workers of America, affiliated with C. I. O., herein called the Federation, the National Labor Relations Board, herein called the Board, by the Regional Director for the Fourteenth Region (St. Louis, Missouri), issued its complaint, dated June 17, 1938, against Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, herein called the respondent, alleging that the respondent

at its plant situated at Crystal City, Missouri, had engaged [fol. 624] in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and the Federation. In respect of the unfair labor practices within the meaning of Section 8 (2) of the Act, the complaint alleged in substance that the respondent had dominated and interfered with the formation and administration of Crystal City Glass Workers' Union, herein called the Crystal City Union, a labor organization of the respondent's employees at its Crystal City, Missouri, plant. A hearing was held in Crystal City, Missouri, on July 18, 20, and 22, 1938, before Joseph L. Maguire, the Trial Examiner duly designated by the Board. The Crystal City Union did not enter an appearance or attempt to intervene in the proceeding. On July 22, 1938, counsel for the Board, the respondent, and the Federation entered into a stipulation, on the basis of which the Board, on September 22, 1938, issued a Decision and Order[1] requiring the respondent to cease and desist "from recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization, or any person or group of persons purporting to represent said organization." On January 14, 1939, the United States Circuit Court of Appeals for the Eighth Circuit entered a decree enforcing the Order of the Board.[2]

On April 4, 1938, the Federation filed with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania) a petition, and on May 13, 1938, an amended petition, alleging that a question affecting commerce had arisen concerning the representation of the respondent's employees at its plants located in Ford City and Creighton, Pennsylvania; Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; and Crystal City, Missouri, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the Act. On May 26, 1938, the Board ordered an investigation and authorized the Regional Director to conduct it. Pursuant to a notice of hearing issued on September 27, 1938, by the Regional

[1] 8 N. L. R. B. 1210.
[2] 102 F. (2d) 1004.

Director, a hearing was held on October 13 and 14, 1938, at Pittsburgh, Pennsylvania, before Tilford E. Dudley, duly designated as Trial Examiner by the Board. At the opening of the hearing the Trial Examiner denied the request of the Crystal City Union to intervene on the ground that the Crystal City Union, having been named in the Federation's petition and amended petition as a labor organization claiming to represent employees directly affected by the investigation, was already a party to the proceeding. The Crystal City Union then waived any absence of formal [fol. 625] notice to it of the hearing. The Board, the respondent, the Federation, and the Crystal City Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on all the issues was afforded all the parties, except that the Trial Examiner, because of the Board's Decision and Order of September 22, 1938, refused to allow the Crystal City Union to introduce evidence as to its membership or representation of employees. After the hearing, the respondent, the Federation and the Crystal City Union filed briefs, and on December 20, 1938, pursuant to notice duly served upon all the parties, oral argument, in which counsel for the respondent and the Federation participated, was had before the Board in Washington, D. C. On January 13, 1939, the Board issued its Decision and Certification of Representatives,[5] finding: (1) that the production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constituted a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act; and (2) that the Federation was the exclusive representative of all the employees in the above described unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Act. The Board certified the Federation as the exclusive representative of the employees in the unit found to be appropriate.

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[5] 10 N. L. R. B. 1111.

Upon charges duly filed by the Federation, the Board, by the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania), issued its complaint in the instant proceeding, dated February 20, 1939, against the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (5) and Section 2 (6) and (7) of the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and the Federation.

In respect of the unfair labor practices the complaint alleged in substance (1) that on or about January 18 and 19, 1939, and thereafter the respondent refused to bargain collectively with the Federation as the exclusive representative of all the respondent's employees in the unit found by the Board in its Decision of January 13, 1939, to be appropriate for the purposes of collective bargaining; [fol. 626] and (2) that by the above and other acts the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

The respondent filed an answer, dated March 3, 1939, admitting the allegations of the complaint in respect to its refusal to bargain collectively with the Federation, but denying that it had thereby engaged in any unfair labor practices within the meaning of the Act. The answer affirmatively alleged that the Board's Decision and Certification of Representatives and the findings therein were "erroneous, arbitrary, and invalid, for the reason, among others," that the unit found appropriate for the purposes of collective bargaining by the Board was not the appropriate unit "within the meaning of Section 9" of the Act.

Pursuant to notice, a hearing was held at Pittsburgh, Pennsylvania, on March 6, 1939, before Webster Powell, the Trial Examiner duly designated by the Board. At the opening of the hearing, the Crystal City Union requested leave to intervene. The respondent joined in this request of the Crystal City Union. The Trial Examiner permitted the Crystal City Union to intervene, but stated that he would not permit it to adduce evidence on matters decided by the Board's Decisions of September 22, 1938, and January 13, 1939. The Board, the respondent, the Federation, and the Crystal City Union were represented by counsel and participated in the hearing.

During the hearing the Trial Examiner excluded evidence offered by the Crystal City Union to prove: (1) that at the time of the hearing, 1,500 of the 1,800 employees at the Crystal City plant belonged to the Crystal City Union and had designated it as their representative for the purpose of collective bargaining, and that the members of the Crystal City Union were opposed to being represented by the Federation for the purposes of collective bargaining; (2) that the respondent had not dominated, interfered with, or contributed support to the Crystal City Union; (3) that the employees at the Crystal City plant had distinct interests from employees at the respondent's other plants; (4) that the Crystal City Union had bargained collectively with the respondent for its members until the respondent refused to continue such bargaining because of the charges, mentioned above, filed against the respondent by the Federation with the Regional Director for the Fourteenth Region; and (5) that since the stipulation of July 22, 1938, was entered into by the Board, the respondent, and the Federation, and since the Board's decision of January 13, 1939, the membership of the Crystal City Union had increased. The Trial Examiner also excluded substantially similar evidence offered by the respondent.

[fol. 627] Part (2) of the offers of proof was clearly inadmissible in view of the stipulation of July 22, 1938, the Board's Order of September 22, 1938, and the court decree of January 14, 1939.[4] As to part (3), at the hearing in the representation case the respondent and the Crystal City Union were given full opportunity to present such evidence, and in the present proceeding neither the respondent nor the Crysfal City Union indicated that the proof sought to

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[4] The Crystal City Union asserts that the stipulation of July 22 and the Order of September 22 are not binding upon it because it did not intervene or participate in that hearing or sign the stipulation. However, the Crystal City Union did not enter an appearance or attempt voluntarily to intervene in the complaint proceeding. It was not entitled to notice of the hearing in the complaint proceeding and its presence was not necessary to enable the Board to issue an appropriate order against the respondent. National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc., and Greyhound Management Company, 303 U. S. 261 (1938).

be admitted related to evidence unavailable at, discovered since, or not introduced in, the representation hearing. With respect to parts (1), (4) and (5) of the offers of proof, we find it unnecessary herein to rule upon the admissibility of such evidence. For the reasons hereinafter set forth, even if the facts stated in the offers of proof are accepted as true, they would not alter our determination of the appropriate bargaining unit. Neither the respondent nor the Crystal City Union has therefore been prejudiced by the Trial Examiner's ruling.

Apart from the limitations resulting from the above rulings of the Trial Examiner, full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all the parties.

During the course of the hearing the Trial Examiner made a number of rulings on other motions and on other objections to the admission of evidence. The Board has reviewed all the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On March 18, 1939, the Trial Examiner filed his Intermediate Report, copies of which were duly served upon all the parties, finding that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1) and (5) of the Act. He recommended that the respondent cease and desist from its unfair labor practices and that, upon request, it bargain with the Federation as the exclusive representative of the employees in the unit found appropriate by the Board in its Decision of January 13, 1939.

The respondent and the Crystal City Union each filed exceptions to the Intermediate Report, and to various rulings of the Trial Examiner, and briefs in support of their ex- [fol. 628] ceptions. On June 8, 1939, pursuant to notice duly served upon all the parties, oral argument was had before the Board in Washington, D. C., by the respondent, the Federation, and the Crystal City Union. The Board has reviewed all the exceptions to the Intermediate Report and to the rulings of the Trial Examiner and finds them to be without merit, except as they are consistent with the findings, conclusions, and order set forth below.

Upon the entire record in the case, the Board makes the following:

Findings of Fact

I. The Business of the Respondent

The respondent is a Pennsylvania corporation with its principal place of business in Pittsburgh, Pennsylvania. It is engaged in the manufacture, sale, and distribution of, among other products, chemicals, paints, varnishes, lacquers, brushes, and many types of glass. The respondent has separated its operations into five main divisions, namely: glass; cement; brushes; chemicals; and paint, varnish and lacquer.[5] The present proceeding involves the glass division only.

The following table shows the location of the plants in the glass division involved in this proceeding, the type of glass each produces, the volume of its production in 1937, the percentage of this production shipped in 1937 to points outside the State in which the plant is located, the percentage of the raw materials used at each plant shipped to it in 1937 from points outside the State in which it is situated, and the normal number of employees at each plant.

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[5] In its Decision of January 13, 1939, the Board found that the five main divisions of the respondent's operations were: commercial, chemical, paint, brush, and flat glass. This finding was based upon the testimony of Robert L. Clause, vice president of the respondent in charge of the flat glass division. At the hearing in the instant proceeding, counsel for the Board and the respondent agreed that the respondent's five divisions were those set forth above in the present decision.

[fol. 629]

Plant	Location	Products	Volume of production in 1937	Percentage of products shipped outside State of location in 1937	Percentage of raw materials shipped into State of location in 1937	Normal number of employees as shown by pay roll of Sept. 30, 1938
Works No. 1	Creighton, Pa.	Plate and safety glass	35,072,350.33 sq. ft. of plate glass 17,416,303.36 sq. ft. of safety glass	[1]99 [3]95	8	[2]1,289 (plate workers) [4]947 (safety workers) 2,236 (total).
Works No. 4	Ford City, Pa.	Plate glass	22,203,732.94 sq. ft.	95	14	1,408
Works No. 6	Ford City, Pa.	Carrara structural glass	150,219.16 sq. ft.	95	45	268
Works No. 9	Crystal City, Mo.	Plate and safety glass	34,511,734.17 sq. ft. of plate glass 13,240,234 sq. ft. of safety glass	[1]99 [3]100	20	1,607
Works No. 10	Henryetta, Okla.	Window glass	494,530 boxes	83	50	[2]273
Works No. 11	Mt. Vernon, Ohio	Window glass	893,389 boxes	92	28	[4]350
Works No. 12	Clarksburg, W. Va.	Window glass	975,806 boxes	99	39	353

[1] Plate glass.
[2] This figure is taken from the pay roll of Dec. 8, 1937, the last one prior to the hearing which reflected normal employment at this plant.
[3] Safety glass.
[4] This figure is taken from the pay roll of Feb. 1, 1938, the last one prior to the hearing which reflected normal employment at this plant.

Normal total number of employees, 6,495.

[fol. 630] II. The Organizations Involved

Federation of Flat Glass Workers of America is a labor organization affiliated with the Congress of Industrial Organizations,[6] admitting to its membership all production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at all the plants in the glass division of the respondent.

Crystal City Glass Workers' Union is an unaffiliated organization admitting to its membership only employees at the Crystal City plant of the respondent.

III. The Unfair Labor Practices

A. The refusal to bargain collectively

(1) The appropriate unit

In our Decision of January 13, 1939, we found that the production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining. In that Decision we reviewed the evidence and set forth at length our reasons for holding such a unit appropriate. Nothing in the record of the present proceeding persuades us that we should alter the conclusions we reached in our Decision of January 13, 1939, in regard to the appropriate unit.

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[6] In its Decision of January 13, 1939, the Board found that the Federation was affiliated with the Committee for Industrial Organization. The evidence introduced at the present hearing establishes that late in November 1938, subsequent to the hearing in the representation case, the Committee for Industrial Organization ceased to exist, and was replaced by the newly formed Congress of Industrial Organizations, with which the Federation is now affiliated.

As previously set forth, the Crystal City Union and the respondent offered evidence, which was excluded by the Trial Examiner, to show: (1) that at the time of the hearing 1,500 of the 1,800 employees at the Crystal City plant belonged to the Crystal City Union and had designated it as their representative for the purposes of collective bargaining, and that the Crystal City Union members were opposed to being represented by the Federation for the purposes of collective bargaining; (2) that since the stipulation of July 22, 1938, was entered into by the Board, the respondent, and [fol. 631] the Federation, and since the Board's Decision of January 13, 1939, the Crystal City Union's membership had increased; and (3) that the Crystal City Union had bargained collectively with the respondent for its members until the respondent refused to continue such bargaining because of the charges filed against the respondent by the Federation in the proceedings resulting in the Board's Order and Decision of September 22, 1938. Accepting the foregoing offer of proof as correctly stating the facts, nevertheless, in view of the proceedings against the respondent culminating in the court decree of January 14, 1939, negotiations between the respondent and the Crystal City Union cannot be regarded by the Board as evidence of genuine collective bargaining; nor can the Crystal City Union's membership and representation of employees at the Crystal City plant be considered by the Board as expressing the free choice of the employees at that plant or as establishing the existence of another labor organization, in addition to the Federation, capable of bargaining collectively with the respondent for the employees there. In so far as this evidence can be assumed to show opposition among the Crystal City plant employees to the Federation, the Board's Decision of January 13, 1939, considered such arguments by the respondent and the Crystal City Union. We see no reason to alter our determination there set forth.

It is objected that the Board was in error in its finding in its January 13, 1939, Decision that the contracts between the respondent and the Federation previous to the one of January 20, 1937, included Federation members employed at the Crystal City plant.[7] We have reexamined the record

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[7] 10 N. L. R. B. 1111, 1117.

and adhere to our previous finding. The vice president of the respondent, Robert L. Clause, who represented the respondent at the negotiations preceding the signing of these contracts, testified that the agreement of November 13, 1934, covered the Crystal City plant to the extent that the Federation had members there.[8] The following contract, dated February 5, 1935, granted a 5-per cent wage increase to em- [fol. 632] ployees at all "plate and safety glass plants,"[9] and was not limited, expressly or by implication, to the plants other than Crystal City. The contract of November 26, 1935, states that the Federation is recognized by the respondent "as the collective bargaining agency for those employees who are members" of the Federation.[10] It is true that the contract of November 26, 1935, referred to occupation base rates at several plants, omitting Crystal City.

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[8] Clause testified:

Q. You didn't exclude in that particular contract [November 13, 1934] Crystal City, did you?

A. No, sir.

Q. And by the terms of that contract * * * it included all of your employees who were members of the Flat Glass Workers of America, didn't it?

A. That is right.

Q. If they had members in Crystal City at that time then that included them in so far as that particular employee was concerned?

A. If they had any members in the plant, yes.

Q. Then Crystal City would be included in so far as it would affect members who were employees at that time?

A. As far as that agreement is concerned, yes.

[9] This contract, as well as the previous one, contains the statements that the respondent "covenants and agrees * * * to apply and abide by the following rules and regulations in its relationships with its employees who are members of the Federation * * *"; and that the respondent "will discuss at any time matters of mutual interest to the Company and those of our employees who are members of the Federation" with duly designated Federation representatives.

[10] This contract also contains the statements in the previous two contracts set forth in footnote 9, supra.

But there is no indication in the contract that this list of plants for occupation base rates, which includes three plants not even involved in the present proceeding, was intended to restrict all the other language and terms of the contract to the plants there listed. It is also true that the contract of January 20, 1937, expressly excluded the Crystal City plant and that the Federation never obtained an exclusive bargaining contract which included the employees at the Crystal City plant. Nevertheless, we think that the record is clear throughout not only that the Federation has endeavored at all times to organize on a division-wide basis but also that in the past contracts have been signed upon such a basis.[11]

It is objected also that at the present time the respondent and the Federation are bargaining in accordance with a contract which does not cover the Crystal City plant and that the Board's ruling "sets aside" this contract and in effect "extends" it to the Crystal City plant, even though that plant is expressly excluded therefrom. It seems clear

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[11] It is also stated that the parties to the contracts previous to the 1937 one "understood" that employees at the Crystal City plant were not included in these contracts. Both the testimony of Clause, the respondent's representative, as set forth in footnote 8, supra, and the testimony of Erwin L. DeShetler, who signed the November 26, 1935, agreement as secretary-treasurer of the Federation and who previously had been vice president of the Federation, is to the contrary. DeShetler testified:

Q. And you don't have recognition in Crystal City plant at this time and you never have had; is that right?

A. I won't say we never did have. I say that the first three agreements that we negotiated with the * * * Company gave us recognition at Crystal City, and we were only excluded from Crystal City * * * starting with the agreement negotiated in February 1937.

Q. Well, were the Crystal City employees included in the first three agreements you had?

A. I would say they were; yes. They were not excluded.

Q. Did you have any organization down there at that time, at Crystal City?

A. We had a few members * * *.

to us, however, that the Board in its determination of the appropriate bargaining unit is not necessarily bound, and in many instances should not adhere, to a unit fixed through some previous agreement between private parties. This seems particularly clear where, as here, one of the parties has made its position plain at the time of signing the con- [fol. 633] tract that the proper unit should be one different from that established in it. Previous contracts are an important factor in determining the appropriate bargaining unit but the Board would, in our opinion, be abandoning its plain functions under Section 9 (b) of the Act if it refused to consider all the factors in a case and relied solely for its determination of the bargaining unit upon prior collective agreements.[12]

Finally, it is said that the decision of the majority "imposes" a bargaining representative upon the Crystal City employees and denies them the opportunity "to express their own free choice as to representation"; and that it requires the respondent to deal with the Federation as representative of the Crystal City employees "although * * * the Federation has never been designated by a majority of these employees to act as their representative." The same can be said of the application of majority rule to any situation where a group of employees are not unanimous in their choice of representatives. Within a department of a plant certain employees may not wish to be represented by the choice of a majority; within a plant certain departments may likewise prefer their own representative; and within the confines of a company certain plants (or a majority of the employees therein) may not wish to bargain with the employer through the majority representative. Yet that fact does not necessarily mean that the department, plant or company-wide unit, as the case may be, is not appropriate for collective bargaining. Such restriction upon "free choice as to representation" is inherent in majority rule. The question before us, then, cannot be answered merely by pointing out that certain employees are not per-

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[12] See the concurring opinion of Mr. Edwin S. Smith and the dissenting opinion of Chairman Madden in Matter of American Can Co. and Engineers Local No. 30 and Firemen and Oilers Local No. 56, 13 N. L. R. B., No. 126.

mitted to deal through the representative for which they may vote or which they may prefer.[13]

The issue before us is simply what bargaining unit will best insure to all the employees involved the full benefit of their right to self-organization and collective bargaining. As stated in our previous Decision,[14] the fact that wages, hours, working conditions, and manufacturing processes vary little as between the different plants; the fact that the grouping of the plants together tends to place the employees on a basis of equal bargaining strength with the employer and the fact that lack of a common grouping pro- [fol. 634] motes disharmony in the bargaining process to the advantage of one section of the employees as against the other, without rational justification based on a difference in the nature of their work, as happened in the 1935 strike; the fact that throughout the history of self-organization in the plants the only legitimate labor organization has recognized the importance of, and has constantly sought to establish, bargaining upon a division-wide basis; the fact that in actual practice contracts were signed upon a division-wide basis until the respondent refused to continue upon such a basis and insisted upon isolating the Crystal City plant, where it was interfering with and dominating a labor organization of its employees; the fact that the previous history of collective bargaining between the respondent and the Federation, even when the Crystal City plant was excluded, shows the feasibility of grouping all these plants, including Crystal City, in one bargaining unit; the fact that the Federation possesses an acknowledged majority in every plant but one and that conditions at the Crystal City plant will almost inevitably be determined by conditions fixed for all the other plants; the fact that the membership of the Crystal City Union is coerced and not voluntary and that the Federation has established some membership there—all these factors lead us to the con-

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[13] It is likewise beside the point to say that the wishes of the Crystal City employees should be determined by a vote. Although no secret ballot was taken, prior to Certification it was stipulated by all parties that the Federation had as members a majority of the employees in the unit found appropriate.

[14] 10 N. L. R. B. 1111.

clusion that the interests of all the employees of the various plants are interwoven and that collective bargaining for all the employees involved can most effectively be achieved through the establishment of a single bargaining unit.

We find, therefore, that the production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment, and that said unit insures to employees of the respondent the full benefit of their rights to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

(2) Representation by the Federation of the majority in the appropriate unit

In our Decision of January 13, 1939, we found that a majority of all the employees in the appropriate unit are members of the Federation. None of the parties in the instant proceeding questioned that finding as to the Federation's majority. Indeed, at the representation hearing, all parties stipulated that such was the fact.

[fol. 635] We find that on January 18 and 19, 1939, and at all times thereafter the Federation was the duly designated representative of a majority of the employees in the appropriate unit, and, pursuant to Section 9 (a) of the Act, was the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

(3) The refusal to bargain collectively

The respondent in its answer and at the hearing admitted the allegations of the complaint in respect to its refusal to bargain collectively on January 18 and 19, 1939, and thereafter with the Federation as the exclusive representative of the employees in the appropriate unit. The evidence introduced at the hearing also establishes that, as alleged in the complaint, the respondent then refused to bargain col-

lectively with the Federation. The respondent based this refusal to bargain collectively with the Federation upon a denial of the appropriateness of the unit proposed by the Federation.[15] This unit, however, had been found appropriate by the Board in its Decision of January 13, 1939, after the respondent had had full opportunity to be heard.

We find that on January 18 and 19, 1939, and at all times thereafter the respondent refused to bargain collectively with the Federation as the exclusive representative of its employees in an appropriate bargaining unit in respect to rates of pay, wages, hours of employment, and other conditions of work, and thereby interfered with, coerced, and restrained its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining and other mutual aid and protection as guaranteed in Section 7 of the Act.

IV. The Effect of the Unfair Labor Practices Upon Commerce

We find that the activities of the respondent set forth in Section III above, occurring in connection with the opera- [fol. 636] tions of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and

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[15] As we pointed out in our Decision of January 13, 1939, the respondent in January 1937 had bargained collectively, and entered into a written agreement, with the Federation for all Federation members employed at all the plants, except Crystal City, involved in the present proceeding. In January 1937 and thereafter the respondent refused the Federation's request to bargain collectively for Federation members employed at the Crystal City plant and to include these employees in the written agreement covering employees at the other plants. In January 1939 the respondent's only objection to the appropriateness of the bargaining unit proposed by the Federation was the inclusion therein of employees at the Crystal City plant, and the respondent was willing to, and did, renew the previous agreement between it and the Federation covering employees at all the plants except Crystal City.

tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that the respondent has engaged in certain unfair labor practices, we shall, therefore, order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act and to restore, as nearly as possible, the situation that existed prior to the commission of the unfair labor practices.

We have found that the respondent has refused to bargain collectively with the Federation. In order to effectuate the policies of the Act, we shall order the respondent, upon request, to bargain collectively with the Federation as the exclusive representative of all employees in the appropriate unit in respect to rates of pay, wages, hours of employment, and other conditions of employment.

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the Board makes the following:

Conclusions of Law

1. Federation of Flat Glass Workers of America, affiliated with C. I. O., is a labor organization, within the meaning of Section 2 (5) of the Act.

2. The production and maintenance employees of the respondent, excluding wi-dow glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

3. By virtue of Section 9 (a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., having been selected as their representative by a majority of the employees in an appropriate unit, was on January 18, 1939, and at all times thereafter has been, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay,

wages, hours of employment, and other conditions of employment.

4. By refusing to bargain collectively with the Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of its employees in the appropriate unit, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (5) of the Act.

[fol. 637] 5. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Pittsburgh Plate Glass Company, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post immediately notices to its employees in conspicuous places throughout its flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, stating: (1) that the [fol. 638] respondent will cease and desist as provided in paragraphs 1 (a) and (b) of this Order; and (2) that the respondent will take the affirmative action required by paragraph 2 (a) of this Order;

(c) Maintain such notices for a period of at least sixty (60) consecutive days from the date of posting;

(d) Notify the Regional Director for the Sixth Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

Mr. William M. Leiserson dissenting:

I regret that I cannot concur in this decision. It imposes on the largest single plant of the company a representative for collective bargaining whom the employees of that plant have not chosen, and it denies these employees any opportunity to express their own free choice as to representation. It disregards the fact that the company and the Federation are bargaining collectively in accordance with the existing contract between them in all the plants of the company where the Federation represents the employees, and it convicts the company of a refusal to bargain with the Federation as the representative of the Crystal City employees, although the fact is not disputed that the Fed-

eration has never been designated by a majority of these employees to act as their representative.

This simple issue as to whether a union which represents employees in five plants may be imposed on a sixth without a vote of some kind is hidden in the long recital of events and procedures in the majority opinion, and in the conclusions as to interference, restraint, and coercion. As a matter of fact no unfair labor practices are charged or found in the case, aside from the question whether the employer must recognize a representative for the Crystal City plant who had not been chosen by the employees of that plant.

Except for Crystal City, the company and the union have been bargaining collectively and making written contracts for a number of years. There is no complaint as to the bargaining for the employees in the plants included under the contract. The case here is in the nature of a friendly suit to determine whether the law permits the certification of the union for the Crystal City plant without an election. Under these circumstances I think the repetition of the legal verbiage about interference, restraint, and coercion is a mistake that tends to frustrate the amicable collective bargaining which the Act is designed to promote.

The Board was in error, in my judgment, when it merged into a single bargaining unit the Crystal City employees with the employees in the five plants under contract with the [fol. 639] Federation, and without a vote, certified the Federation as the exclusive representative of the employees in all the plants.[16] This does not seem to me essentially different from the denial of free choice of representatives in cases where employers impose labor organizations on their employees.

The fact that the company formerly dominated the employees' organization in Crystal City is no justification for the Board's action in denying some 1600 employees in the plant an opportunity to select a representative of their own. In 1938 the company voluntarily consented to withdraw all recognition from the Crystal City Glass Workers' Union,[17] and there is no charge that it has in any way failed to carry out that stipulation. To assume that the employees are incapable of making a free choice of repre-

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[16] 10 N. L. R. B. 1111.

[17] 8 N. L. R. B. 1210.

sentatives because the company may have in previous years participated in the affairs of their organization seems to me quite improper.

I do not think the Board is vested with authority by the Act to extend to employees in unorganized plants the representatives chosen by organized workers in other plants. The Board's authority is limited to restraining interference or domination by the employer and to providing the employees an opportunity to express a free choice as to the representation they desire. Even if the employer misbehaved, that does not justify the Board in taking away from his employees the right guaranteed by the Act to have a representative of their own choosing.

The majority justifies this procedure by its finding that the employees in all six plants constitute a single appropriate bargaining unit. But in order to do this the decision disregards the history of collective bargaining with the company and the policies and practices established by the series of contracts made between the Federation and the company. Prior to 1937 all the contracts recognized the Federation as the representative of its members only. This obviously established neither a craft, plant, employer unit, nor any other kind of unit, except the members who belonged to the Federation. Even if the Federation had some members at the Crystal City plant and even if these were included under the contract, which is disputed, since it is admitted that the vast majority of the Crystal City employees were not members of the Federation, it is obvious that the Crystal City plant was not combined with other plants into a single corporation-wide bargaining unit. Nevertheless, the majority finds that because some Crystal City employees may have been members of the Federation, therefore, a corporation-wide unit was established by collective bargaining. The history of collective bargain- [fol. 640] ing between the Federation and the company as evidenced by the written contracts made prior to 1937 clearly establishes that the employees of the Crystal City plant as a body were never included in a bargaining unit for which the Federation was authorized to act as a representative.

The decision not only disregards the collective bargaining history and the contracts signed prior to 1937, but it also sets aside the current contract which was signed in 1937. This contract, by its express terms, applies to five

plants only and excludes the Crystal City plant. To justify this setting aside of the express terms of the contract, the majority decision argues: "The written agreement signed on that day, (January 20, 1937) at the insistence of the Company, despite the Federation's objections, did not cover the Federation members at Crystal City."[18] It seems to me quite improper for the Board to go back of a signed agreement and make a finding that the Federation signed it against its will because of previous objections to the exclusion of Crystal City. If this is proper, then it is necessary to inquire also whether the company had not previously objected to granting wage increases and other requests of the Federation to which it finally assented in the agreement. Anyone familiar with labor agreements knows that they are most commonly signed at the insistence of organizations of employees and that the employer reluctantly concedes to the bargaining strength of labor organizations.

The company's position is that the previous contracts did not cover Crystal City and that the Federation never bargained for any of the employees of that plant. It holds that the language of the 1937 contract merely changed ambiguous wording of the previous contracts which might imply that Crystal City was included. That the company's position is correct and that the Board is in error in finding that Crystal City employees were covered by the agreements prior to 1937 is evident from the printed copy of the agreement dated November 26, 1935. This agreement had appended to it a list of "Occupation Base Rates," which gave occupation numbers, occupation names, and base rates to be paid in various plants of the company. But plant No. 9, which is the Crystal City plant, was not included in the list. Apparently the parties understood that employees at this plant were not covered by the agreement.

The current contract dating from 1937 speaks for itself, and there is no contention that it is not binding on the parties. Yet the majority decision in effect extends it to a plant which is expressly excluded by its terms. What the [fol. 641] Federation could not itself secure by collective bargaining when the contract was negotiated is given to it by the Board in a finding as to the appropriate bargaining unit. The majority decision argues that the Board has the authority to determine bargaining units. I do not

[18] 10 N. L. R. B. 1111, 1117.

believe that the Act authorizes the Board to establish any bargaining units that suit the fancy of its members.

There is nothing in the record to show that any collective bargaining on a corporation-wide basis had ever been carried on. In none of the four contracts between the company and the Federation was the Federation recognized as the exclusive representative of the employees of any unit. All the contracts were negotiated in behalf of such employees only as were members of the Federation. Until the agreement of 1937 was negotiated the question of representing Crystal City employees was not discussed in the course of bargaining, and then the question was settled by definitely excluding Crystal City. This agreement is now in effect, and the Board may not under the guise of settling a controversy as to representation extend the agreement to cover a plant expressly excluded by the parties themselves.

I am of the opinion, therefore, that the complaint against the company, involving as it does only the refusal to recognize the Federation as representative of the Crystal City employees, should be dismissed.

[fols. 642-643] Case No. C-1222

[Title omitted]

AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, C. Matthew Pientka being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 21st day of September 1939 I mailed postpaid, bearing Government frank, by registered mail, a copy of the Decision and Order (dated Sept. 19) to the following named persons, addressed to them at the following addresses: Messrs. H. B. Holmes & Wm. Lewis, 35 East Gay Street, Columbus, Ohio. Mr. Fred Hoffmeister, 208 North Broadway, St. Louis, Missouri. Smith, Buchanan & Ingersoll, Union Trust Building, Pittsburgh, Pennsylvania. Mr. J. Wesley McAfee, Boatmen's Bank Bldg., St. Louis, Missouri.

-(s.) C. Matthew Pientka.

Subscribed and sworn to before me this 21st day of September 1939. (s) John A. Nevros. (Seal.)

[fol. 644] [Caption omitted]

[fols. 645-648] Appearances of counsel omitted in printing.

[fol. 649] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 449, Original

PITTSBURGH PLATE GLASS COMPANY

v.

NATIONAL LABOR RELATIONS BOARD, FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated with the Congress of Industrial Organizations, and Crystal City Glass Workers' Union

PETITION FOR REVIEW OF DECISION AND CERTIFICATION OF THE NATIONAL LABOR RELATIONS BOARD—Filed September 22, 1939

To the Honorable the Judges of the United States Circuit Court of Appeals for the Eighth Circuit:

The petition of Pittsburgh Plate Glass Company respectfully represents:

1. Your petitioner, Pittsburgh Plate Glass Company (hereinafter sometimes referred to as the Company), is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and has its principal place of business and office in the City of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania. It is engaged in the business of manufacturing and selling various glass, paint and chemical products. It owns and operates six plants for the manufacture of flat glass, namely, window glass plants located at Mt. Vernon, Ohio, Clarksburg, West Virginia, and Henryetta, Oklahoma, and plate glass plants located at Crystal City, Missouri, Creighton, Pennsylvania, and Ford City, Pennsylvania, which plants are the only ones concerned in this proceeding. The Company is authorized to transact and transacts business in the State of Missouri, within the Eighth Judicial Circuit of the United States and the jurisdiction of your Honorable Court.

[fol. 650] 2. The respondent, National Labor Relations Board (hereinafter sometimes referred to as the Board), is an agency organized and existing under the Act of Congress approved July 5, 1935, 49 Stat. 449, known as the National Labor Relations Act. The present members of the Board are J. Warren Madden, Chairman, Edwin S. Smith and William M. Leiserson.

3. Federation of Flat Glass Workers of America, affiliated with the Congress of Industrial Organizations (hereinafter referred to as the Federation), is an unincorporated association and is a labor organization within the meaning of Section 2, subdivision (5), of the National Labor Relations Act, having its principal office in the City of Columbus, County of Franklin, State of Ohio.

4. Crystal City Glass Workers' Union (hereinafter referred to as the Crystal City Union) is a pro forma decree corporation organized and existing under the laws of the State of Missouri and is a labor organization within the meaning of Section 2, subdivision (5), of the National Labor Relations Act, having its principal office in the City of Crystal City, County of Jefferson, State of Missouri.

5. On April 4, 1938, the Federation filed with the Regional Director of the Board for the Sixth Region a petition for investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, and on May 13, 1938, filed an amended petition (Case No. VI-R-91, now Case No. R-1058). The petition and amended petition were served on the Company on September 27, 1938, with notice that a hearing would be conducted on October 13, 1938. The petition as amended at the hearing claims that the appropriate bargaining unit consists of all production and maintenance employees employed in the Com- [fol. 651] pany's plate and safety glass plants located at Creighton and Ford City, Pennsylvania, and Crystal City, Missouri, and its window glass plants located at Mt. Vernon, Ohio, Clarksburg, West Virginia, and Henryetta, Oklahoma, except clerical employees not directly connected with production and supervisory employees and employees who are members of the Window Glass Cutters' League of America, affiliated with the American Federation of Labor.

6. The hearing was held on October 13 and 14, 1938, before Tilford E. Dudley, Esq., the Trial Examiner ap-

pointed by the Board. At the hearing the Crystal City Union moved for leave to intervene. The Trial Examiner denied the motion on the ground that the union was a party to the proceeding. The Company, the Board, the Federation and the Crystal City Union were each represented by counsel and participated in the hearing. The Company, for the purpose of that proceeding and for no other purpose, stipulated that the Federation included in its membership a majority of the employees in the unit claimed by the Federation to be appropriate for the purposes of collective bargaining; the stipulation not to be construed, however, as admitting that the Federation included in its membership a majority of employees as aforesaid in the Company's plant at Crystal City. It was further stipulated that the Federation had in its membership a majority of employees as aforesaid at each of the other plants mentioned in the petition. The Crystal City Union offered to prove that it had a membership of approximately 1,300 employees out of an approximate total of 1,600 employees at the Crystal City plant of the Company, who desired that that plant be recognized as the appropriate unit for collective bargaining. Objection on the part of the Federation to the admission of this evidence was sustained. There was introduced in evi- [fol. 652] dence on behalf of the Crystal City Union a petition signed by 1,334 employees of the Crystal City plant of the Company claiming that the appropriate bargaining unit for such employees was the plant at Crystal City and that testimony should be taken in Crystal City and vicinity appertaining to the issues in the proceeding. The Company moved that the Board order an election by the production and maintenance employees of the Company, other than clerical employees not directly connected with production and supervisory employees, employed at the plant of the Company at Crystal City, Missouri, to determine whether such employees wish to be represented for the purposes of collective bargaining by the Federation. The Company also joined in a motion presented by the Federation for an election at all the flat glass plants, provided that such election should show the returns by plants in order to indicate the Crystal City vote on the issue. This motion was later withdrawn by the Federation.

7. Briefs were submitted to the Board by the Company, the Federation and the Crystal City Union, and oral argu-

ment was heard by the Board in Washington on December 20, 1938.

8. The Board, on January 13, 1939, issued its Decision and Certification in the proceeding, a copy of which is attached hereto, made a part hereof and marked Exhibit A.

9. Your petitioner avers that it is a person aggrieved by said Decision and Certification of the Board of January 13, 1939, and presents this petition to your Honorable Court for review of the said Decision and Certification of January 13, 1939. In accordance with the rules of your Honorable Court, there has been deposited with the Board a sum sufficient to compensate for the transcript and five copies thereof required by Rule 45, Section 2, of said rules.

[fol. 653] 10. Your petitioner avers that said Decision and Certification of January 13, 1939, is erroneous, arbitrary and invalid for the following reasons:

(1) The Board erred in overruling the ninth exception of your petitioner, which exception was as follows:

"9. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness DeShetler, which question, answer, motion and ruling were as follows:

'Q. Now, you are secretary and treasurer of the Federation of Flat Glass Workers of America, and are you in a position to know the number of members that you have who are employees of the Pittsburgh Plate Glass Company in their various plants?

A. The total amount?

Q. The total number.

A. We have a record that is submitted to us each month from the local unions. I would not know the exact figures at the present time, but I would say in all of the plants of the company we have approximately 95 per cent, with the exception of Crystal City, where we are at the present time close to a majority.

Mr. Buchanan: If your Honor please, I move that the answer be struck out. It is not the best evidence. The Union's cards are the best evidence showing what men are in good standing.

* * * * * * * *

Trial Examiner Dudley: Of course, I agree with you that the cards are the best evidence, but I will let the answer stand.' (R. R. 180)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(2) The Board erred in overruling the fifteenth exception of your petitioner, which exception was as follows:

[fol. 654] "15. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

'Q. From the cards and from your own knowledge, do you know how many of the employees at Crystal City are members of the Union, or Federation of Flat Glass Workers of America?

* * * * * * *

A. Yes.

Q. Do you know how many members you have in Crystal City?

A. Yes.

Q. How many in good standing?

Mr. Buchanan: Objected to because it is a matter of record. The record will be the best evidence.

Trial Examiner Dudley: I will let him state.

Q. (By Mr. Holmes) How many do you have?

A. 463.' (R. R. 233)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudi-

cial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(3) The Board erred in overruling the sixteenth exception of your petitioner, which exception was as follows:

"16. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

'Q. How many would you say that were not employed that are members?

[fol. 655] Mr. Buchanan: Objected to. That is a matter of record. The record will be the best evidence.

* * * * * * *

A. I would say from 75 to 80 are unemployed.' (R. R. 234)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(4) The Board erred in overruling the twenty-first exception of your petitioner, which exception was as follows:

"21. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out all the testimony of the petitioner's witness McVay with regard to membership of the Federation of Flat Glass Workers at Crystal City, which motion and ruling were as follows:

'Mr. Buchanan: On the record again, I move that the testimony of the witness with regard to membership of the Union at Crystal City, the Union of the Federation of Flat Glass Workers at Crystal City be stricken from the record.

* * * * * * *

Trial Examiner Dudley: Over objection, I admit that testimony for such value as it may have, and I will allow

it to remain in the record. The motion is denied.' (R. R. 248)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(5) The Board erred in overruling the twenty-second exception of your petitioner, which exception was as follows:

[fol. 656] "22. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner sustaining the petitioner's objection to an offer of proof by the Crystal City Glass Workers' Union, which offer, objection and ruling were as follows:

'By Mr. Hoffmeister:

Q. Does the Crystal City Glass Workers Union keep records of its membership?

Mr. Holmes: Objected to as immaterial and as irrelelant.

Trial Examiner Dudley: I will sustain the objection.

Mr. Hoffmeister: If the Examiner please, I want to make an offer of proof at this time by this witness and other witnesses to prove by competent testimony that the Crystal City Glass Workers Union heretofore testified to, and whose, or its By-Laws have been offered in evidence as Intervenor's Exhibit No. 1, has a membership of approximately thirteen hundred employees out of an approximate total of sixteen hundred employees at the Crystal City Plant of the Pittsburgh Plate Glass Company, being Plant No. 9, who desire to show by this witness and other witnesses that it be recognized as the appropriate Unit for collective bargaining in Plant No. 9 of the Pittsburgh Plate Glass Company at Crystal City, Missouri.

Mr. Holmes: I move to strike out, of course, the offer and statement.

Mr. Hoffmeister: And further, that they be the appropriate Unit for bargaining in Plant No. 9 at Crystal City, Missouri, of the Pittsburgh Plate Glass Company.

Mr. Holmes: I object to any evidence in support of that particular contention, and that the statement of the attorney representing this supposed organization be not admitted as any part or evidence in this particular proceeding.

Trial Examiner Dudley: I will allow the offer of proof to stand on the record as such, I will sustain the objection.' (R. R. 313-314)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)''

[fol. 657] (6) The Board erred in overruling the twenty-eighth exception of your petitioner, which exception was as follows:

''28. The respondent excepts to the ruling of the Board denying its motion for an election, which motion and ruling are as follows:

'Mr. Buchanan: Mr. Examiner, the Pittsburgh Plate Glass Company by its attorneys, J. Wesley McAfee and Smith, Buchanan & Ingersoll, hereby moves that the Board order an election by the production and maintenance employees of the company other than clerical employees not directly connected with production and supervisory employees employed at the plant of the company at Crystal City, Missouri, to determine whether such employees wish to be represented for the purpose of collective bargaining by the Federation of Flat Glass Workers of America.' (R. R. 251)

'During the hearing the Company moved that the Board conduct an election among its employees at Crystal City to determine their desires concerning representation. * * * For reasons hereinafter set forth these motions are hereby denied.' (D. & C. 3-4)''

(7) The Board erred in overruling the twenty-ninth exception of your petitioner, which exception was as follows:

"29. The respondent excepts to the following finding of fact by the Board:

'Crystal City Glass Workers' Union, prior to the Board's Decision and Order of September 22, 1938, in Case No. C-778, disestablishing it as a labor organization, was an unaffiliated labor organization admitting to its membership only employees at the Crystal City Plant of the Company.' (D. & C. 6)"

(8) The Board erred in overruling the thirty-first exception of your petitioner, which exception was as follows:

"31. The respondent excepts to the following finding of fact by the Board:

'From the very beginning it sought to represent all flat glass workers in all the Company's plants, including Crystal City.' (D. & C. 9)"

(9) The Board erred in overruling the thirty-second exception of your petitioner, which exception was as follows:

"32. The respondent excepts to the following finding of fact by the Board:

[fol. 658] 'In 1934 the first organizer for the Federation, Robert McVay, came to Crystal City but had little success because of the intense hostility he encountered there, resulting in part from the activities of the Crystal City Union which had been founded in 1933.' (D. & C. 9)"

(10) The Board erred in overruling the thirty-third exception of your petitioner, which exception was as follows:

"33. The respondent excepts to the following finding of fact by the Board:

'By the end of 1934 the Federation had about 12 members at Crystal City.' (D. & C. 9)"

(11) The Board erred in overruling the thirty-fourth exception of your petitioner, which exception was as follows:

"34. The respondent excepts to the following finding of fact by the Board:

'On November 13, 1934, the Federation entered into a written agreement with the Company, covering all employees at all the plants of the Company, including Crystal City, who were Federation members.' (D. & C. 9)"

(12) The Board erred in overruling the thirty-fifth exception of your petitioner, which exception was as follows:

"35. The respondent excepts to the following finding of fact by the Board:

'Not until January 20, 1937, did the Company for the first time insist that Crystal City be excluded from the agreement between it and the Federation on the ground that the Federation did not have as members a majority of the employees at this plant.' (D. & C. 9)"

(13) The Board erred in overruling the thirty-sixth exception of your petitioner, which exception was as follows:

"36. The respondent excepts to the following finding of fact by the Board:

'Since then the Federation has intensified its activities at Crystal City, chartering a local there in April 1938 and obtaining approximately 463 members by September 1938.' (D. & C. 9)"

(14) The Board erred in overruling the thirty-seventh exception of your petitioner, which exception was as follows:

"37. The respondent excepts to the following finding of fact by the Board:

[fol. 659] 'Since the failure to include Crystal City in the 1937 agreement after having done so on three previous occasions resulted from the demand of the Company and

despite the Federation's protests, little weight can be given this omission as an argument against the unit sought by the Federation.' (D. & C. 10)"

(15) The Board erred in overruling the thirty-eighth exception of your petitioner, which exception was as follows:

"38. The respondent excepts to the following finding of fact by the Board:

'Moreover, the Crystal City employees never attempted to bargain with the Company separately from the other plants.' (D. & C. 10)"

(16) The Board erred in overruling the thirty-ninth exception of your petitioner, which exception was as follows:

"39. The respondent excepts to the following finding of fact by the Board:

'• • • the Crystal City union • • • at one time claimed over 1300 members.' (D. & C. 10)"

(17) The Board erred in overruling the fortieth exception of your petitioner, which exception was as follows:

"40. The respondent excepts to the following finding of fact by the Board:

'However, the Crystal City Union, by virtue of the Board's Decision and Order in Case No. C-778' • • • ceased to be able to function as a labor organization within the meaning of Section 2(5) of the Act, and its existence as such at Crystal City then terminated.' (D. & C. 10)"

(18) The Board erred in overruling the forty-first exception of your petitioner, which exception was as follows:

"41. The respondent excepts to the following finding of fact by the Board:

'Since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial.' (D. & C. 11)"

(19) The Board erred in overruling the forty-second exception of your petitioner, which exception was as follows:

"42. The respondent excepts to the following finding of fact by the Board:

[fol. 660] 'Moreover, the prior existence of the Crystal City Union for over 3 years, until almost the day of the hearing in this proceeding, to a large degree explains the desire of the 1,300 Crystal City employees for a separate bargaining unit, as expressed in their petition, and such desires may well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by these employees.' (D. & C. 11)"

(20) The Board erred in overruling the forty-fifth exception of your petitioner, which exception was as follows:

"45. The respondent excepts to the following finding of fact by the Board:

'Under these circumstances, we cannot regard the wishes of the 1,300 employees at Crystal City as being decisive of the issue here presented.' (D. & C. 12)"

(21) The Board erred in overruling the forty-sixth exception of your petitioner, which exception was as follows:

"46. The respondent excepts to the following finding of fact by the Board:

'Nor are we impressed by the argument that the absence of any "union" background differentiates Crystal City from the other plants. Since 1934 both the Federation and the Crystal City Union have been active at this plant.' (D. & C. 12)"

(22) The Board erred in overruling the forty-seventh exception of your petitioner, which exception was as follows:

"47. The respondent excepts to the following finding of fact by the Board:

'For reasons set forth in the previous paragraph, these factors do not seem controlling to us in view of all the circumstances of this case.' (D. & C. 12)"

(23) The Board erred in overruling the forty-eighth exception of your petitioner, which exception was as follows:

"48. The respondent excepts to the following finding of fact by the Board:

[fol. 661] 'On the other hand, we have carefully examined the entire record in this proceeding and are unable to find any substantial reason why the request of the Federation for a single bargaining unit for all the flat glass plants of the Company should not be granted as the best method of insuring to all employees the full benefit of their right to self-organization and collective bargaining under the Act.' (D. & C. 12)"

(24) The Board erred in overruling the fifty-first exception of your petitioner, which exception was as follows:

"51. The respondent excepts to the following finding of fact by the Board:

'Such differences as exist are no greater than those found among the Company's other flat glass plants, and inasmuch as they have bargained together successfully since 1934 despite these differences, we are unable to see any reason why Crystal City should experience difficulty because of any such differences in bargaining together with the other flat glass plants of the Company.' (D. & C. 13)"

(25) The Board erred in overruling the fifty-second exception of your petitioner, which exception was as follows:

"52 The respondent excepts to the following finding of fact by the Board:

'We find that the production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a

unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.' (D. & C. 14)"

(26) The Board erred in overruling the fifty-third exception of your petitioner, which exception was as follows:

"53. The respondent excepts to the following finding of fact by the Board:

'We are satisfied, under the circumstances of this case, that a majority of all the employees in the appropriate unit are members of the Federation.' (D. & C. 15)"

[fol. 662] (27) The board erred in overruling the fifty-fourth exception of your petitioner, which exception was as follows:

"54. The respondent excepts to the following finding of fact by the Board:

'We find that the Federation has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collecting bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.' (D. & C. 15)"

(28) The Board erred in overruling the fifty-fifth exception of your petitioner, which exception was as follows:

"55 The respondent excepts to the second conclusion of law of the Board, which is as follows:

'2. The production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the National Labor Relations Act.' (D. & C. 15)"

(29) The Board erred in overruling the fifty-sixth exception of your petitioner, which exception was as follows:

"56. The respondent excepts to the third conclusion of law of the Board, which is as follows:

'3. Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9(a) of the National Labor Relations Act.' (D. & C. 15-16)"

(30) The Board erred in overruling the fifty-seventh exception of your petitioner, which exception was as follows:

"57. The respondent excepts to the following Certification of Representatives by the Board:

'Certification of Representatives

By virtue of and pursuant to the power vested in the [fol. 663] National Labor Relations Board by Section 9(c) of the National Labor Relations Act, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

It Is Hereby Certified that Federation of Flat Glass Workers of America, affiliated with C. I. O., has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9(a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.' (D. & C. 16)"

(31) The Board erred in overruling the fifty-eighth exception of your petitioner, which exception was as follows:

"58. The respondent excepts to the Decision and Certification of Representatives for the reason that Section 9(b)

of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United States, in violation of Article I, Section 1, of the Constitution."

(32) The Board erred in overruling the fifty-ninth exception of your petitioner, which exception was as follows:

"59. The respondent excepts to the Decision and Certification of Representatives for the reason that said Decision and Certification deprives the respondent of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution."

(33) The Board erred in overruling the sixtieth exception of your petitioner, which exception was as follows:

"60. The respondent excepts to the Decision and Certification of Representatives for the reason that said Decision and Certification is erroneous in that it was arrived at by depriving the Crystal City Glass Workers' Union of liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution."

[fol. 664] Wherefore your petitioner respectfully prays:

(1) That certified copies of this petition be forthwith served upon the National Labor Relations Board, the Federation of Flat Glass Workers of America, and the Crystal City Glass Workers' Union;

(2) That said National Labor Relations Board be required to certify for filing with the United States Circuit Court of Appeals for the Eighth Circuit a transcript of the record in Case No. R-1058;

(3) That said Decision and Certification of the Board of January 13, 1939, in Case No. R-1058, be set aside;

(4) That your petitioner have such other and further relief as your Honorable Court may deem just and proper.

Pittsburgh Plate Glass Company, by Wm. S. Igoe, Igoe, Carroll, Keefe & McAfee, Its Attorneys, Boatmen's Bank Building, St. Louis, Missouri. John G. Buchanan, Smith, Buchanan & Ingersoll, Of Counsel, 1025 Union Trust Building, Pittsburgh, Pennsylvania.

[fols. 665-681] "Exhibit "A" omitted. Printed side page 72 ante.

[fol. 682] [File endorsement omitted]

IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 450, Original

PITTSBURGH PLATE GLASS COMPANY

v.

NATIONAL LABOR RELATIONS BOARD, FEDERATION OF FLAT GLASS WORKERS OF AMERICA, affiliated with the Congress of Industrial Organizations, and Crystal City Glass Workers' Union

PETITION FOR REVIEW OF ORDER OF THE NATIONAL LABOR RELATIONS BOARD—Filed Sept. 22, 1939

To the Honorable the Judges of the United States Circuit Court of Appeals for the Eighth Circuit:

The petition of Pittsburgh Plate Glass Company respectfully represents:

1. Your petitioner, Pittsburgh Plate Glass Company (hereinafter sometimes referred to as the Company), is a corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania, and has its principal place of business and office in the City of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania. It is engaged in the business of manufacturing and selling various glass, paint and chemical products. It owns and operates six plants for the manufacture of flat glass, namely, window glass plants located at Mt. Vernon, Ohio, Clarksburg, West Virginia, and Henryetta, Oklahoma, and plate glass plants located at Crystal City, Missouri, Creighton, Pennsylvania, and Ford City, Pennsylvania, which plants are the only ones concerned in this proceeding. The Company is authorized to transact and transacts business in the State of Missouri, within the Eighth Judicial Circuit of the United States and the jurisdiction of your Honorable Court.

[fol. 683] 2. The respondent, National Labor Relations Board (hereinafter sometimes referred to as the Board), is an agency organized and existing under the Act of Congress approved July 5, 1935, 49 Stat. 449, known as the National Labor Relations Act. The present members of the Board are J. Warren Madden, Chairman, Edwin S. Smith and William M. Leiserson.

3. Federation of Flat Glass Workers of America, affiliated with the Congress of Industrial Organizations (hereinafter referred to as the Federation), is an unincorporated association and is a labor organization within the meaning of Section 2, subdivision (5), of the National Labor Relations Act, having its principal office in the City of Columbus, County of Franklin, State of Ohio.

4. Crystal City Glass Workers' Union (hereinafter referred to as the Crystal City Union) is a pro forma decree corporation organized and existing under the laws of the State of Missouri and is a labor organization within the meaning of Section 2, subdivision (5), of the National Labor Relations Act, having its principal office in the City of Crystal City, County of Jefferson, State of Missouri.

5. On April 4, 1938, the Federation filed with the Regional Director of the Board for the Sixth Region a petition for investigation and certification of representatives pursuant to Section 9(c) of the National Labor Relations Act, and on May 13, 1938, filed an amended petition (Case No. VI-R-91, now Case No. R-1058). The petition and amended petition were served on the Company on September 27, 1938, with notice that a hearing would be conducted on October 13, 1938. The petition as amended at the hearing claims that the appropriate bargaining unit consists of all production and maintenance employees employed in the [fol. 684] Company's plate and safety glass plants located at Creighton and Ford City, Pennsylvania, and Crystal City, Missouri, and its window glass plants located at Mt. Vernon, Ohio, Clarksburg, West Virginia, and Henryetta, Oklahoma, except clerical employees not directly connected with production and supervisory employees and employees who are members of the Window Glass Cutters' League of America, affiliated with the American Federation of Labor.

6. The hearing was held on October 13 and 14, 1938, before Tilford E. Dudley, Esq., the Trial Examiner ap-

pointed by the Board. At the hearing the Crystal City Union moved for leave to intervene. The Trial Examiner denied the motion on the ground that the union was a party to the proceeding. The Company, the Board, the Federation and the Crystal City Union were each represented by counsel and participated in the hearing. The Company, for the purpose of that proceeding and for no other purpose, stipulated that the Federation included in its membership a majority of the employees in the unit claimed by the Federation to be appropriate for the purposes of collective bargaining; the stipulation not to be construed, however, as admitting that the Federation included in its membership a majority of employees as aforesaid in the Company's plant at Crystal City. It was further stipulated that the Federation had in its membership a majority of employees as aforesaid at each of the other plants mentioned in the petition. The Crystal City Union offered to prove that it had a membership of approximately 1,300 employees out of an approximate total of 1,600 employees at the Crystal City plant of the Company, who desired that that plant be recognized as the appropriate unit for collective bargaining. Objection on the part of the Federation to the admission of this evidence was sustained. There was introduced in evidence [fol. 685] on behalf of the Crystal City Union a petition signed by 1,334 employees of the Crystal City plant of the Company claiming that the appropriate bargaining unit for such employees was the plant at Crystal City and that testimony should be taken in Crystal City and vicinity appertaining to the issues in the proceeding. The Company moved that the Board order an election by the production and maintenance employees of the Company, other than clerical employees not directly connected with production and supervisory employees, employed at the plant of the Company at Crystal City, Missouri, to determine whether such employees wish to be represented for the purposes of collective bargaining by the Federation. The Company also joined in a motion presented by the Federation for an election at all the flat glass plants, provided that such election should show the returns by plants in order to indicate the Crystal City vote on the issue. This motion was later withdrawn by the Federation.

7. Briefs were submitted to the Board by the Company, the Federation and the Crystal City Union, and oral argu-

ment was heard by the Board in Washington on December 20, 1938.

8. The Board, on January 13, 1939, issued its Decision and Certification in the proceeding, a copy of which is attached hereto, made a part hereof and marked Exhibit A.

9. The Federation, on January 26, 1939, filed with the Regional Director of the Board for the Sixth Region a charge alleging that the Company had engaged in and was then engaging in unfair labor practices within the meaning of Section 8, subdivisions (1) and (5), of the National Labor Relations Act. The Regional Director, on February 20, 1939, served on the Company a complaint issued pursuant to Section 10(b) of the National Labor Relations Act, with a copy of the charge and notice that a hearing would be conducted on March 6, 1939 (Case No. VI-C-319, [fol. 686] now Case No. C-1222). The complaint alleged that the Company had refused and continued to refuse to recognize and accept as appropriate the unit found by the Board on January 13, 1939, to be the appropriate unit and had refused and continued to refuse to bargain collectively with the Federation as exclusive representative of all the employees in the unit found by the Board to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment. The complaint further alleged that by the aforementioned acts and conduct the Company had engaged in and was then engaging in unfair labor practices within the meaning of Section 8, subdivisions (1) and (5) of the National Labor Relations Act, and concluded that such acts constituted unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1) and (5), and Section 2, subdivisions (6) and (7), of the National Labor Relations Act.

10. On March 3, 1939, the Company filed its answer to the above complaint, in which it admitted that it had refused to bargain collectively with the Federation as the exclusive representative of all the employees in the unit found by the Board to be appropriate. In its answer the Company averred that the findings of the Board were erroneous, arbitrary and invalid, and that the unit found by the Board to be appropriate for the purposes of collective bargaining was not the appropriate unit within the meaning of Section 9 of the National Labor Relations

Act, and prayed that the Board find that the Company had not engaged in and was not engaging in any unfair labor practice and that it issue an order dismissing the complaint.

11. A hearing was held on March 6, 1939, before Webster Powell, Esq., the Trial Examiner appointed by the [fol. 687] Board. The Company, the Board, the Federation and the Crystal City Union were each represented by counsel and participated in the hearing. The Crystal City Union filed a motion for leave to intervene, in which motion the Company joined. The Trial Examiner granted the motion, but ruled that he would not permit the Crystal City Union "to adduce evidence on matters decided by the Decision of the Board in the previous C case, reported in 8 N. L. R. B. 149, or in the previous R case, reported in 10 N. L. R. B. 102." It was stipulated at the hearing between counsel for the Board, the Company, the Federation and the Crystal City Union that all motions, objections and exceptions made and taken in the course of the hearing of the certification case, No. R-1058, the record and the Decision and Certification in which had been received in evidence in the complaint case, should be regarded as renewed for the purposes of the complaint proceeding and that all rulings on such motions, objections and exceptions by the Trial Examiner and the Board should be regarded as made for the purposes of the complaint proceeding also, subject only to the further order of the Board with regard to any such motion, objection or exception. The Crystal City Union offered to prove that it had a membership of approximately 1,500 employees out of a total of approximately 1,800 employees upon the payroll at the Company's Crystal City plant; that its members, being a majority of all the employees at that plant, had designated and selected it as their representative for the purposes of collective bargaining and that they were opposed to being represented for such purposes by the Federation; that it was not dominated nor had its formation or administration been interfered with by the Company, and that the Company had not contributed financial or other support to it; that the employees at the Crystal City plant had distinct interests from employees at other [fol. 688] plants of the Company; that it had bargained collectively for its members until the Company declined to

continue such bargaining in view of a complaint filed by the Federation in Case No. C-778, to which case the Crystal City Union was not a party; that since the stipulation in Case No. C-778 between the Board, the Federation and the Company made July 22, 1938, and since the Decision and Certification in Case No. R-1058 on January 13, 1939, the membership of the Crystal City Union had increased. Objection on the part of the Board and the Federation to the admission of any such evidence was sustained. The Company then offered to prove substantially the same facts as those offered to be proved by the Crystal City Union, and particularly that since the stipulation was made in Case No. C-778 the membership of the Crystal City Union had increased by 448 and that of these additional members 263 had become members of the Crystal City Union since the date of the certification of the Federation in Case No. R-1059. Objections on the part of the Board and the Federation to all of these offers of proof made by the Company were sustained by the Trial Examiner.

12. The Trial Examiner issued his Intermediate Report on March 18, 1939, to which the Petitioner, on March 29, 1939, duly filed exceptions. The Trial Examiner concluded that the Company had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Sections 8(1) and 8(5) of the National Labor Relations Act and recommended, inter alia, that the Company cease and desist from refusing to bargain collectively with the Federation and that, upon request, it bargain collectively with the Federation as the exclusive representative in the unit previously found by the Board to be appropriate.

13. Briefs were submitted to the Board by the Company and the Crystal City Union, and oral argument was heard by the Board in Washington on June 8, 1939.

[fol. 689] 14. The Board, on September 19th, 1939, issued its Decision and Order in Case No. C-1222, a copy of which is attached hereto, made a part hereof and marked Exhibit B.

15. Your petitioner avers that it is a person aggrieved by said Order of the Board of September 19th, 1939, made in Case No. C-1222, and presents this petition to your Hon-

orable Court for review of the said Order of September 19th, 1939. In accordance with the rules of your Honorable Court, there has been deposited with the Board a sum sufficient to compensate for the transcript and five copies thereof required by Rule 45, Section 2, of said rules.

16. Your petitioner avers that said Order of 1939, is erroneous, arbitrary and invalid for the following reasons:

(1) The Board erred in overruling the ninth exception of your petitioner, which exception was as follows:

"9. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out the answer to a question put to petitioner's witness DeShetler, which question, answer, motion and ruling were as follows:

'Q. Now, you are secretary and treasurer of the Federation of Flat Glass Workers of America, and are you in a position to know the number of members that you have who are employees of the Pittsburgh Plate Glass Company in their various plants?

A. The total amount?

Q. The total number.

A. We have a record that is submitted to us each month from the local unions. I would not know the exact figures at the present time, but I would say in all of the plants of the company we have approximately 95 per cent, with the exception of Crystal City, where we are at the present time close to a majority.

Mr. Buchanan: If your Honor please, I move that the answer be struck out. It is not the best evidence. The Union's cards are the best evidence showing what men are in good standing.

• • • • • • •

[fol. 690] Trial Examiner Dudley: Of course, I agree with you that the cards are the best evidence, but I will let the answer stand.' (R. R. 180)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has re-

viewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(2) The Board erred in overruling the fifteenth exception of your petitioner, which exception was as follows:

"15. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

'Q. From the cards and from your own knowledge, do you know how many of the employees at Crystal City are members of the Union, or Federation of Flat Glass Workers of America?

. . . . . .

A. Yes.

Q. Do you know how many members you have in Crystal City?

A. Yes.

Q. How many in good standing?

Mr. Buchanan: Objected to because it is a matter of record. The record will be the best evidence.

Trial Examiner Dudley: I will let him state.

Q. (By Mr. Holmes) How many do you have?

A. 465.' (R. R. 233)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

[fol. 691] (3) The Board erred in overruling the sixteenth exception of your petitioner, which exception was as follows:

"16. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner overruling the

objection of the respondent to a question put to petitioner's witness McVay, which question, objection, ruling and answer were as follows:

'Q. How many would you say that were not employed that are members?

Mr. Buchanan: Objected to. That is a matter of record. The record will be the best evidence.

• • • • • • • •

A. I would say from 75 to 80 are unemployed.' (R. R. 234)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(4) The Board erred in overruling the twenty-first exception of your petitioner, which exception was as follows:

"21. The respondent excepts to the ruling of the Board affirming the denial by the Trial Examiner of the respondent's motion to strike out all the testimony of the petitioner's witness McVay with regard to membership of the Federation of Flat Glass Workers at Crystal City, which motion and ruling were as follows:

'Mr. Buchanan: On the record again, I move that the testimony of the witness with regard to membership of the Union at Crystal City, the Union of the Federation of Flat Glass Workers at Crystal City be stricken from the record.

• • • • • • • •

Trial Examiner Dudley: Over objection, I admit that testimony for such value as it may have, and I will allow it to remain in the record. The motion is denied.' (R. R. 248)

Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objec-

tions to the admission of evidence. The Board has re-
[fol. 692] viewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(5) The Board erred in overruling the twenty-second exception of your petitioner, which exception was as follows:

"22. The respondent excepts to the ruling of the Board affirming the ruling of the Trial Examiner sustaining the petitioner's objection to an offer of proof by the Crystal City Glass Workers' Union, which offer, objection and ruling were as follows:

'Q. (By Mr. Hoffmeister) Does the Crystal City Glass Workers Union keep records of its membership?

Mr. Holmes: Objected to as immaterial and as irrelevant.

Trial Examiner Dudley: I will sustain the objection.

Mr. Hoffmeister: If the Examiner please, I want to make an offer of proof at this time by this witness and other witnesses to prove by competent testimony that the Crystal City Glass Workers Union heretofore testified to, and whose, or its By-Laws have been offered in evidence as Intervenor's Exhibit No. 1, has a membership of approximately thirteen hundred employees out of an approximate total of sixteen hundred employees at the Crystal City Plant of the Pittsburgh Plate Glass Company, being Plant No. 9, who desire to show by this witness and other witnesses that it be recognized as the appropriate Unit for collective bargaining in Plant No. 9 of the Pittsburgh Plate Glass Company at Crystal City, Missouri.

Mr. Holmes: I move to strike out, of course, the offer and statement.

Mr. Hoffmeister: And further, that they be the appropriate Unit for bargaining in Plant No. 9 at Crystal City, Missouri, of the Pittsburgh Plate Glass Company.

Mr. Holmes: I object to any evidence in support of that particular contention, and that the statement of the attorney representing this supposed organization be not admitted as any part or evidence in this particular proceeding.

Trial Examiner Dudley: I will allow the offer of proof to stand on the record as such. I will sustain the objection.' (R. R. 313-314)

[fol. 693] Upon this ruling the ruling of the Board was as follows:

'During the course of the hearing the Trial Examiner made a number of other rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.' (D. & C. 4)"

(6) The Board erred in overruling the twenty-eighth exception of your petitioner, which exception was as follows:

"28. The respondent excepts to the ruling of the Board denying its motion for an election, which motion and ruling are as follows:

'Mr. Buchanan: Mr. Examiner, the Pittsburgh Plate Glass Company by its attorneys, J. Wesley McAfee and Smith, Buchanan & Ingersoll, hereby moves that the Board order an election by the production and maintenance employees of the company other than clerical employees not directly connected with production and supervisory employees employed at the plant of the company at Crystal City, Missouri, to determine whether such employees wish to be represented for the purpose of collective bargaining by the Federation of Flat Glass Workers of America.' (R. R. 251)

'During the hearing the Company moved that the Board conduct an election among its employees at Crystal City to determine their desires concerning representation. • • • For reasons hereinafter set forth these motions are hereby denied.' (D. & C. 3-4)"

(7) The Board erred in overruling the twenty-ninth exception of your petitioner, which exception was as follows:

"29. The respondent excepts to the following finding of fact by the Board:

'Crystal City Glass Workers' Union, prior to the Board's Decision and Order of September 22, 1938, in Case No. C-778, disestablishing it as a labor organization, was an unaffiliated labor organization admitting to its membership

only employees at the Crystal City Plant of the Company.' (D. & C. 6)"

(8) The Board erred in overruling the thirty-first exception of your petitioner, which exception was as follows:

"31. The respondent excepts to the following finding of fact by the Board:

'From the very beginning it sought to represent all flat glass workers in all the Company's plants, including Crystal City.' (D. & C. 9)"

[fol. 694] (9) The Board erred in overruling the thirty-second exception of your petitioner, which exception was as follows:

"32. The respondent excepts to the following finding of fact by the Board:

'In 1934 the first organizer for the Federation, Robert McVay, came to Crystal City but had little success because of the intense hostility he encountered there, resulting in part from the activities of the Crystal City Union which had been founded in 1933.' (D. & C. 9)"

(10) The Board erred in overruling the thirty-third exception of your petitioner, which exception was as follows:

"33. The respondent excepts to the following finding of fact by the Board:

'By the end of 1934 the Federation had about 12 members at Crystal City.' (D. & C. 9)"

(11) The Board erred in overruling the thirty-fourth exception of your petitioner, which exception was as follows:

"34. The respondent excepts to the following finding of fact by the Board:

'On November 13, 1934, the Federation entered into a written agreement with the Company, covering all employees at all the plants of the Company, including Crystal City, who were Federation members.' (D. & C. 9)"

(12) The Board erred in overruling the thirty-fifth exception of your petitioner, which exception was as follows:

"35. The respondent excepts to the following finding of fact by the Board:

'Not until January 20, 1937, did the Company for the first time insist that Crystal City be excluded from the agreement between it and the Federation on the ground that the Federation did not have as members a majoriy of the employees at this plant.' (D. & C. 9)"

(13) The Board erred in overruling the thirty-sixth exception of your petitioner, which exception was as follows:

"36. The respondent excepts to the following finding of fact by the Board:

[fol. 695] 'Since then the Federation has intensified its activities at Crystal City, chartering a local there in April 1938 and obtaining approximately 463 members by September 1938.' (D. & C. 9)"

(14) The Board erred in overruling the thirty-seventh exception of your petitioner, which exception was as follows:

"37. The respondent excepts to the following finding of fact by the Board:

'Since the failure to include Crystal City in the 1937 agreement after having done so on three previous occasions resulted from the demand of the Company and despite the Federation's protests, little weight can be given this omission as an argument against the unit sought by the Federation.' (D. & C. 10)"

(15) The Board erred in overruling the thirty-eighth exception of your petitioner, which exception was as follows:

"38. The respondent excepts to the following finding of fact by the Board:

'Moreover, the Crystal City employees never attempted to bargain with the Company separately from the other plants.' (D. & C. 10)"

(16) The Board erred in overruling the thirty-ninth exception of your petitioner, which exception was as follows:

"39. The respondent excepts to the following finding of fact by the Board:

'* * * the Crystal City Union * * * at one time claimed over 1300 members.' (D. & C. 10)"

(17) The Board erred in overruling the fortieth exception of your petitioner, which exception was as follows:

"40. The respondent excepts to the following finding of fact by the Board:

'However, the Crystal City Union, by virtue of the Board's Decision and Order in Case No. C-778 * * * ceased to be able to function as a labor organization within the meaning of Section 2(5) of the Act, and its existence as such at Crystal City then terminated.' (D. & C. 10)"

(18) The Board erred in overruling the forty-first exception of your petitioner, which exception was as follows:

[fol. 696] "41. The respondent excepts to the following finding of fact by the Board:

'Since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial.' (D. & C. 11)"

(19) The Board erred in overruling the forty-second exception of your petitioner, which exception was as follows:

"42. The respondent excepts to the following finding of fact by the Board:

'Moreover, the prior existence of the Crystal City Union for over 3 years, until almost the day of the hearing in this proceeding, to a large degree explains the desire of the 1,300 Crystal City employees for a separate bargaining unit, as expressed in their petition, and such desires may well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by these employees.' (D. & C. 11)"

(20) The Board erred in overruling the forty-fifth exception of your petitioner, which exception was as follows:

"45. The respondent excepts to the following finding of fact by the Board:

'Under these circumstances, we cannot regard the wishes of the 1,300 employees at Crystal City as being decisive of the issue here presented.' (D. & C. 12)"

(21) The Board erred in overruling the forty-sixth exception of your petitioner, which exception was as follows:

"46. The respondent excepts to the following finding of fact by the Board:

'Nor are we impressed by the argument that the absence of any "union" background differentiates Crystal City from the other plants. Since 1934 both the Federation and the Crystal City Union have been active at this plant.' (D. & C. 12)"

(22) The Board erred in overruling the forty-seventh exception of your petitioner, which exception was as follows:

"47. The respondent excepts to the following finding of fact by the Board:

[fol. 697] 'For reasons set forth in the previous paragraph, these factors do not seem controlling to us in view of all the circumstances of this case.' (D. & C. 12)"

(23) The Board erred in overruling the forty-eighth exception of your petitioner, which exception was as follows:

"48. The respondent excepts to the following finding of fact by the Board:

'On the other hand, we have carefully examined the entire record in this proceeding and are unable to find any substantial reason why the request of the Federation for a single bargaining unit for all the flat glass plants of the Company should not be granted as the best method of insuring to all employees the full benefit of their right to self-organization and collective bargaining under the Act.' (D. & C. 12)"

(24) The Board erred in overruling the fifty-first exception of your petitioner, which exception was as follows:

"51. The respondent excepts to the following finding of fact by the Board:

'Such differences as exist are no greater than those found among the Company's other flat glass plants, and inasmuch as they have bargained together successfully since 1934 despite these differences, we are unable to see any reason why Crystal City should experience difficulty because of any such differences in bargaining together with the other flat glass plants of the Company.' (D. & C. 13)"

(25) The Board erred in overruling the fifty-second exception of your petitioner, which exception was as follows:

"52. The respondent excepts to the following finding of fact by the Board:

'We find that the production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.' (D. & C. 14)"

[fol. 698] (26) The Board erred in overruling the fifty-third exception of your petitioner, which exception was as follows:

"53. The respondent excepts to the following finding of fact by the Board:

'We are satisfied, under the circumstances of this case, that a majority of all the employees in the appropriate unit are members of the Federation.' (D. & C. 15)"

(27) The Board erred in overruling the fifty-fourth exception of your petitioner, which exception was as follows:

"54. The respondent excepts to the following finding of fact by the Board:

'We find that the Federation has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.' (D. & C. 15)"

(28) The Board erred in overruling the fifty-fifth exception of your petitioner, which exception was as follows:

"55. The respondent excepts to the second conclusion of law of the Board, which is as follows:

'2. The production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the National Labor Relations Act.' (D. & C. 15)"

(29) The Board erred in overruling the fifty-sixth exception of your petitioner, which exception was as follows:

"56. The respondent excepts to the third conclusion of law of the Board, which is as follows:

'3. Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9(a) of the National Labor Relations Act.' (D. & C. 15-16)"

[fol. 699] (30) The Board erred in overruling the fifty-seventh exception of your petitioner, which exception was as follows:

"57. The respondent excepts to the following Certification of Representatives by the Board:

'Certification of Representatives

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9(c) of the

National Labor Relations Act, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

It Is Hereby Certified that Federation of Flat Glass Workers of America, affiliated with C. I. O., has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9(a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.' (D. & C. 16)"

(31) The Board erred in overruling the fifty-eighth exception of your petitioner, which exception was as follows:

"58. The respondent excepts to the Decision and Certification of Representatives for the reason that Section 9(b) of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United States, in violation of Article I, Section 1, of the Constitution."

(32) The Board erred in overruling the fifty-ninth exception of your petitioner, which exception was as follows:

"59. The respondent excepts to the Decision and Certification of Representatives for the reason that said Decision and Certification deprives the respondent of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution."

[fol. 700] (33) The Board erred in overruling the sixtieth exception of your petitioner, which exception was as follows:

"60. The respondent excepts to the Decision and Certification of Representatives for the reason that said Decision

and Certification is erroneous in that it was arrived at by depriving the Crystal City Glass Workers' Union of liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution."

(34) The Board erred in overruling the sixty-first exception of your petitioner, which exception was as follows:

"61. The respondent excepts to the following ruling of the Trial Examiner in connection with the motion for leave to intervene by the Crystal City Glass Workers' Union joined in by the respondent:

'I shall not, however, permit the intervener to adduce evidence on matters decided by the decision of the Board in the previous C case reported in 8-NLRB-149, or in the previous R case reported in 10 NLRB-102.' (C. R. 26)"

(35) The Board erred in overruling the sixty-second exception of your petitioner, which exception was as follows:

"62. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to the offer of proof made by the intervener during the course of the testimony of the intervener's witness Laiben, which offer and ruling were as follows:

'Mr. Kleeb: If the Trial Examiner please, because of the conditions placed upon the intervention by the Trial Examiner, and because of counsel for the Board having placed a general objection to intervention, may I request an offer from Mr. Hoffmeister as to what he intends to prove by this witness, to determine whether he is remaining within the bounds of this condition, or whether he is going outside of it?

Mr. Hoffmeister: I will read an offer of proof at this time, if Mr. Trial Examiner please.

I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union has a membership of approximately 1500 employees out of a total of approximately 1800 employees on the payroll at the present time at the Crystal City plant of the Pittsburgh Plate Glass Company.

[fol. 701] That the members of this union being the majority of all the employees at the said plant, have designated and selected it as their representative for purposes of col-

lective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

That the members of this union are opposed to being represented for the purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

That the said union is not dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

That the Pittsburgh Plate Glass Company has not contributed financial or other support to it.

That the employees at the Crystal City plant have distinct interests from employees at other plants of the Pittsburgh Plate Glass Company.

That the representatives of the Crystal City Glass Workers Union bargained collectively for the members with that company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the said union was not a party.

That since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the Company in that case on July 22, 1938, and since the certification of the Federation of Flat Glass Workers of America as the representative for collective bargaining for employees at all of the flat glass plants of the company on January 13, 1939, in case No. R-1058 before the Board, the membership of the Crystal City Glass Workers Union has increased in numbers.

That is my offer of proof.

Mr. Kleeb: Because of the offer of proof as stated, counsel for the Board objects to this witness being permitted to testify to any evidence tending to prove what was offered to be proven, for the reason that the question of support or fostering of this Crystal City Glass Workers Union by the respondent is not an issue in this case; secondly, because the offer as stated goes beyond the conditions [fol. 702] placed upon intervention by the Trial Examiner; and thirdly, because the position of the Crystal City Glass Workers Union with reference to the appropriateness of the unit which is an issue here, was presented at the representation hearing held in this region in October of 1938,

and that unit question was determined by the Board in its decision in Case R-1058.

Mr. Lewis: Counsel for the Federation wishes to join with Mr. Kleeb in the objection.

Trial Examiner Powell: Are there any further remarks?

Mr. Buchanan: Mr. Examiner, it is the position of the company that the evidence offered on behalf of the Crystal City Glass Workers Union should be received.

Trial Examiner Powell: Objection of the counsel for the Board is sustained.' (C. & R. 30-33)"

(36) The Board erred in overruling the sixty-third exception of your petitioner, which exception was as follows:

"63. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to a question put to the intervener's witness Laiben, which question, objections and during were as follows:

'Q. (By Mr. Hoffmeister) Mr. Laiben, do you know how many members the Crystal City Glass Workers Union have at the present time?

Mr. Lewis: Object.

Mr. Kleeb: Objected to.

Trial Examiner Powell: Objection sustained.' (C. & R. 33)"

(37) The Board erred in overruling the sixty-fourth exception of your petitioner, which exception was as follows:

"64. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to a question put to the intervener's witness Laiben, which question, objections and ruling were as follows:

'Q. (By Mr. Hoffmeister) Has there been an increase in the membership of the Crystal City Glass Workers Union since July 22, 1938?

Mr. Lewis: Object.

Mr. Kleeb: I object to that as immaterial and irrelevant.

Trial Examiner Powell: Objection sustained.' (C. & R. 33)"

[fol. 703] (38) The Board erred in overruling the sixty-fifth exception of your petitioner, which exception was as follows:

"65. The respondent excepts to the ruling of the Trial Examiner sustaining the objection of the Board to a question put to the intervener's witness Laiben, which question, objection and ruling were as follows:

'Q. (By Mr. Hoffmeister) Now, since January 13, 1939, has there been an increase in the membership?

Mr. Kleeb: Objected to.
Trial Examiner Powell: Sustained.' (C. R. 33)"

(39) The Board erred in overruling the sixty-sixth exception of your petitioner, which exception was as follows:

"66. The respondent excepts to the granting by the Trial Examiner of the motion of the Board to strike out the answer of the intervener's witness Laiben to a question put to him, which question, motion and ruling were as follows:

'Q. Since July 22, 1938, and, in particular, since the time of the last hearing in this case, has the Pittsburgh Plate Glass Company in any manner dominated or interfered with the administration of the Crystal City Glass Workers Union?

A. They have not.

• • • • • • • •

Mr. Kleeb: I meant to object before he answered, and move to strike the answer.

• • • • • • •

Trial Examiner Powell: The answer may be stricken.' (C. R. 35)"

(40) The Board erred in overruling the sixty-seventh exception of your petitioner, which exception was as follows:

"67. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

[fol. 704] 'Mr. Buchanan: Mr. Examiner, in view of the fact that it has been suggested by counsel for the Board

and for the Federation of Flat Glass Workers that the offer should be split, I now make this offer on behalf of the Pittsburgh Plate Glass Company, namely:

To prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union has a membership of approximately 1500 employees out of a present total of approximately 1800 employees on the payroll at the Crystal City plant of the Pittsburgh Plate Glass Company.

Mr. Lewis: I object to that offer on behalf of the Federation of Flat Glass Workers.

* * * * * * *

Mr. Kleeb: Mr. Trial Examiner, with that explanation of counsel for the respondent as to the purpose, I will join counsel for the Federation of Flat Glass Workers and object to the relevancy and materiality of this testimony.

Mr. Lewis: Mr. Examiner, I wish to renew my objection.

Trial Examiner Powell: Objection sustained.' (C. R. 36-37, 39)"

(41) The Board erred in overruling the sixty-eighth exception of your petitioner, which exception was as follows:

"68. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

'Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the members of the Crystal City Glass Workers Union, some 1500 in number, being a majority of all the employees at the Crystal City plant, have designated and selected that union as their representative for collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

Mr. Kleeb: Object.

Mr. Lewis: Mr. Examiner, I would like to object for the Federation, as immaterial.

Mr. Kleeb: I object as immaterial.

Trial Examiner Powell: Objection sustained.' (C. R. 39)"

[fol. 705] (42) The Board erred in overruling the sixty-ninth exception of your petitioner, which exception was as follows:

"69. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and rulings were as follows:

'Mr. Buchanan: I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the members of the Crystal City Glass Workers Union are opposed to being represented for purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

Mr. Lewis: On behalf of the 5700 members of the Federation of Flat Glass Workers, employees of the Pittsburgh Plate Glass Company, I object to that.

Mr. Kleeb: I object, immaterial.

Mr. Buchanan: If the Examiner please, on the form of the objection, I call your attention to the fact that the record is bare as to the membership of the Federation of Flat Glass Workers, and I trust that your Honor on ruling will give no weight to the assertion there are 5700 members of the Federation among the employees of the Pittsburgh Plate Glass Company.

Trial Examiner Powell: Objection sustained.' (C. R. 40)"

(43) The Board erred in overruling the seventieth exception of your petitioner, which exception was as follows:

"70. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

'Mr. Buchanan: I offer to prove by the witness on the stand and other witnesses, by competent testimony, that the Crystal City Glass Workers Union is not dominated, nor was its formation interfered with, nor has its administration been interfered with, by the Pittsburgh Plate Glass Company.

Mr. Kleeb: Objected to as immaterial and irrelevant.

Mr. Lewis: Objected to.

Trial Examiner Powell: Objection sustained.' (C. R. 40-41)"

[fol. 706] (44) The Board erred in overruling the seventy-first exception of your petitioner, which exception was as follows:

"71. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

'Mr. Buchanan: I offer to prove that since the hearing in the certification case on October 13 and 14, 1938, the Crystal City Glass Workers Union has not been dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company.

Mr. Lewis: I object to that as immaterial.

* * * * * * *

Mr. Kleeb: Objected to as immaterial and irrelevant.

Trial Examiner Powell: Objection sustained.' (C. R. 41)"

(45) The Board erred in overruling the seventy-second exception of your petitioner, which exception was as follows:

"72. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

'Mr. Buchanan: Mr. Examiner, I make the same offer as that last made, substituting the date "July 22, 1938", the date of the stipulation in the complaint case in the Fourteenth Region.

Mr. Lewis: Objected to as immaterial.

Mr. Kleeb: And I object for the reason aforesaid.

Trial Examiner Powell: Objection sustained.' (C. R. 41)"

(46) The Board erred in overruling the seventy-third exception of your petitioner, which exception was as follows:

"73. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the

petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

[fol. 707] 'Mr. Buchanan: Mr. Examiner, I make the same offer, substituting the date "September 22, 1938", being the date of the order of the Board in the complaint case on the stipulation requiring the Pittsburgh Plate Glass Company, among other things, to cease and desist from:

"In any manner dominating or interfering with the administration of the Crystal City Glass Workers Union, or any other organization of its employees, or contributing aid or support to said organization, or any other labor organization of its employees; from recognizing or dealing with Crystal City Glass Workers Union as a labor organization, or any person or group of persons purporting to represent said organization."

Mr. Kleeb: Objected to, same reason.

Mr. Lewis: Same objection.

Trial Examiner Powell: Objection sustained.' (C. R. 41-42)"

(47) The Board erred in overruling the seventy-fourth exception of your petitioner, which exception was as follows:

"74. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and rulings were as follows:

'Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, by competent testimony, that the Crystal City Glass Workers Union bargained collectively for its members with the Pittsburgh Plate Glass Company until the company declined to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case C-778, to which the Crystal City Glass Workers Union was not a party.

Mr. Lewis: I object to that as immaterial, irrelevant.

Mr. Kleeb: I join the objection.

Trial Examiner Powell: Objection sustained.' (C. R. 42)"

(48) The Board erred in overruling the seventy-fifth exception of your petitioner, which exception was as follows:

[fol. 708] "75. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

'Mr. Buchanan: I offer to prove by the witness on the stand, and other witnesses, and records, by competent testimony, that since the stipulation entered into between the Board, the Federation of Flat Glass Workers of America, and the Pittsburgh Plate Glass Company in the case C-778 in the Fourteenth Region on July 22, 1938, the membership of the Crystal City Glass Workers Union has increased by 448.

Mr. Lewis: I object to that as immaterial.

Mr. Kleeb: I join that objection.

Trial Examiner Powell: Objection sustained.' (C. R. 42-43)"

(49) The Board erred in overruling the seventh-sixth exception of your petitioner, which exception was as follows:

"76. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the petitioner to an offer of proof by the respondent, which offer, objections and ruling were as follows:

'Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, and records, by competent testimony, that of the 448 members who have joined the Crystal City Glass Workers Union since July 22, 1938, 263 have become members of that union since January 13, 1939, the date of the certification of the Federation of Flat Glass Workers of America as the representative for collective bargaining of employees of certain classes at all the flat glass plants of the Pittsburgh Plate Glass Company.

Mr. Lewis: Objection to that as immaterial.

Mr. Kleeb: I join in the objection.

* * * * * * *

Trial Examiner Powell: Objection sustained.' (C. R. 43, 44)"

(50) The Board erred in overruling the seventy-seventh exception of your petitioner, which exception was as follows:

"77. The respondent excepts to the ruling of the Trial Examiner sustaining the objections of the Board and the

petitioner to an offer of proof by the respondent, which offer and objections were as follows:

[fol. 709] 'Mr. Buchanan: Mr. Examiner, I offer to prove by the witness on the stand, and other witnesses, and by competent testimony, that not only since the stipulation previously referred to of July 22, 1938, but since the decision of the Board in the certification case on January 13, 1939, the Crystal City Glass Workers Union has continued to be an active organization for the purposes for which it was chartered and shown by its by-laws in evidence, though its activity in the matter of collective bargaining has been restricted by the stipulation made in the case to which it was not a party.

Mr. Lewis: Object to that as immaterial.

Mr. Kleeb: I object to that as immaterial and irrelevant.' (C. R. 44-45)"

(51) The Board erred in overruling the seventh-ninth exception of your petitioner, which exception was as follows:

"79. The respondent excepts to the first conclusion in the Intermediate Report of the Trial Examiner, which is as follows:

'1. Respondent, by refusing to bargain collectively with Federation of Flat Glass Workers of America, and by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8(1) and Section 2(6) and (7) of the National Labor Relations Act.' (I. R. 7)"

(52) The Board erred in overruling the eightieth exception of your petitioner, which exception was as follows:

"80. The respondent excepts to the second conclusion in the Intermediate Report of the Trial Examiner, which is as follows:

'2. Respondent, by refusing to bargain collectively with Federation of Flat Glass Workers of America, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within

the meaning of Section 8(5) and Section 2(6) and (7) of the National Labor Relations Act.' (I. R. 7)"

(53) The Board erred in overruling the eighty-first exception of your petitioner, which exception was as follows:

"81. The respondent excepts to the first recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

[fols. 710-711] 'Wherefore, the undersigned recommends that:

1. Respondent cease and desist from interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist the Federation of Flat Glass Workers of America, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.' (I. R. 7)"

(54) The Board erred in overruling the eighty-second exception of your petitioner, which exception was as follows:

"82. The respondent excepts to the second recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

'Wherefore, the undersigned recommends that:

* * * * * * *

2. Respondent cease and desist from refusing to bargain collectively with Federation of Flat Glass Workers of America, the representative of the production and maintenance employees, as hereinabove more fully set forth.' (I. R. 7)"

(55) The Board erred in overruling the eighty-third exception of your petitioner, which exception was as follows:

"83. The respondent excepts to the third recommendation in the Intermediate Report of the Trial Examiner, which is as follows:

'Wherefore, the undersigned recommends that:

* * * * * * *

3. In order to effectuate the policies of the Act, respondent take the following affirmative action:

(a) Upon request, bargain collectively with the Federation of Flat Glass Workers of America as the exclusive representative of the respondent's production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production and supervisory employees at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

[fol. 712] (b) Post immediately in conspicuous places in its plants at Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, and maintain for a period of at least sixty (60) consecutive days, notices to its employees, stating (1) that respondent will cease and desist in the manner aforesaid; (2) that respondent will, upon request, bargain with the Federation of Flat Glass Workers of America, as exclusive representative of respondent's production and maintenance employees in said plants, with respect to rates of pay, wages, hours of employment, and other conditions of employment;

(c) File with the Regional Director for the Sixth Region on or before ten (10) days from the receipt of this Intermediate Report, a report in writing setting forth in detail the manner and form in which it has complied with the foregoing requirements.' (I. R. 7-8)"

(56) The Board erred in overruling the eighty-fourth exception of your petitioner, which exception was as follows:

"84. The respondent excepts to the following recommendation in the Intermediate Report of the Trial Examiner:

'It is further recommended that, unless on or before ten (10) days from the receipt of the Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the

matter be referred forthwith to the National Labor Relations Board and that said Board issue an order requiring respondent to take the action aforesaid.' (I. R. 8)"

(57) The Board erred in overruling the eighty-fifth exception of your petitioner, which exception was as follows:

"85. The respondent excepts to the Intermediate Report of the Trial Examiner for the reason that Section 9(b) of the National Labor Relations Act is an attempt to delegate legislative power vested in the Congress of the United States, in violation of Article I, Section 1, of the Constitution."

(58) The Board erred in overruling the eighty-sixth exception of your petitioner, which exception was as follows:

"86. The respondent excepts to the Intermediate Report of the Trial Examiner for the reason that said Intermediate Report deprives the respondent of its liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution."

[fol. 713] (59) The Board erred in overruling the eighty-seventh exception of your petitioner, which exception was as follows:

"87. The respondent excepts to the Intermediate Report of the Trial Examiner for the reason that said Intermediate Report is erroneous in that it was arrived at by depriving the Crystal City Glass Workers' Union of liberty and property without due process of law, in violation of the Fifth Amendment to the Constitution."

(60) The Board erred in its decision and order of September 19, 1939, in finding and holding as follows:

"Nevertheless, we think that the record is clear throughout not only that the Federation has endeavored at all times to organize on a division-wide basis but also that in the past contracts have been signed upon such a basis.[11] "

for the reasons that——

(a) There is no evidence to support said finding

(b) Said finding is contradicted by the undisputed evidence.

(61) The Board erred in its decision and order of September 19, 1939, in finding and holding as follows:

"It is objected also that at the present time the respondent and the Federation are bargaining in accordance with a contract which does not cover the Crystal City plant and that the Board's ruling 'sets aside' this contract and in effect 'extends' it to the Crystal City plant, even though that plant is expressly excluded therefrom. It seems clear to us, however, that the Board in its determination of the appropriate bargaining unit is not necessarily bound, and in many instances should not adhere, to a unit fixed through some previous agreement between private parties. This seems particularly clear where, as here, one of the parties has made its position plain at the time of signing the contract that the proper unit should be one different from that established in it."

for the reasons that——

[fol. 714] (a) Said finding, and each and every part thereof, is not supported by any evidence.

(b) Said finding, and each and every part thereof, is against the undisputed evidence in the record.

(c) The conclusions therein contained, and each and every one thereof, are not supported by any evidence and are not supported or justified by the findings made by the Board.

(62) The Board erred in its decision and order of September 19, 1939, in finding and holding as follows:

"The issue before us is simply what bargaining unit will best insure to all the employees involved the full benefit of their right to self-organization and collective bargaining. As stated in our previous Decision,[14] the fact that wages, hours, working conditions, and manufacturing processes vary little as between the different plants; the fact that the grouping of the plants together tends to place the employees on a basis of equal bargaining strength with the

employer and the fact that lack of a common grouping promotes disharmony in the bargaining process to the advantage of one section of the employees as against the others, without rational justification based on a difference in the nature of their work, as happened in the 1935 strike; the fact that throughout the history of self-organization in the plants the only legitimate labor organization has recognized the importance of, and has constantly sought to establish, bargaining upon a division-wide basis; the fact that in actual practice contracts were signed upon a division-wide basis until the respondent refused to continue upon such a basis and insisted upon isolating the Crystal City plant, where it was interfering with and dominating a labor organization of its employees; the fact that the previous history of collective bargaining between the respondent and the Federation, even when the Crystal City plant was excluded, shows the feasibility of grouping all these plants, including Crystal City, in one bargaining unit; the fact that the Federation possesses an acknowledged majority in every plant but one and that conditions at the Crystal City plant will almost inevitably be determined by conditions fixed for all the other plants; the fact that the membership of the Crystal City Union is coerced and not voluntary and that the Federation has established some membership there,— all these factors lead us to the conclusion that the [fol. 715] interests of all the employees of the various plants are interwoven and that collective bargaining for all the employees involved can most effectively be achieved through the establishment of a single bargaining unit.

"We find, therefore, that the production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania, and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment, and that said unit insures to employees of the respondent the full benefit of their rights to self-organization and to collective bargaining and otherwise effectuates the policies of the Act."

for the reasons that:

(a) There is no evidence in the record to support the aforesaid finding or any part thereof.

(b) Each and every part of the aforesaid finding is against the evidence.

(c) The undisputed evidence shows that petitioner never intended to negotiate or contract upon a company-wide basis.

(d) Even if the facts alleged were true, they do not support the conclusion that collective bargaining for all of the employees involved can most effectively be achieved through the establishment of a single bargaining unit, and said conclusion is against the law.

(63) The Board erred in its decision and order of September 19, 1939, in finding and holding as follows:

[fol. 716] "We find that on January 18 and 19, 1939, and at all times thereafter, the Federation was the duly designated representative of a majority of the employees in the appropriate unit, and, pursuant to Section 9 (a) of the Act, was the exclusive representative of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment."

for the reasons—

(a) There is no evidence in the record to support said finding.

(b) Said finding is against the evidence.

(c) Said finding is against the law.

(64) The Board erred in its decision and order of September 19, 1939, in finding and holding as follows:

"We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several states, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce."

for the reasons—

(a) That there is no evidence in the record to support said finding.

(b) That said finding is against the evidence.

(65) The Board erred in its Decision and Order of September 19, 1939, in its conclusion of law as follows:

"2. The production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri, Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargain- [fol. 717] ing, within the meaning of Section 9 (b) of the Act."

for the reasons that—

(a) Said conclusion is against the law.

(b) There is no evidence in the record to support said conclusion.

(c) The findings of fact of the Board do not support said conclusion.

(66) The Board erred in its Decision and Order of September 19, 1939, in its conclusion of law as follows:

"3. By virtue of Section 9 (a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., having been selected as their representative by a majority of the employees in an appropriate unit, was on January 12, 1939, and at all times thereafter has been, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment."

for the reasons that—

(a) Said conclusion is against the law.

(b) There is no evidence in the record to support said conclusion.

(c) The findings of fact of the Board do not support said conclusion.

(67) The Board erred in its Decision and Order of September 19, 1939, in its conclusion of law as follows:

"By refusing to bargain collectively with the Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of its employees in the appropriate unit, the respondent has engaged in and is en- [fol. 718] gaging in unfair labor practices, within the meaning of Section 8 (5) of the Act."

for the reasons that—

(a) Said conclusion is against the law.

(b) There is no evidence in the record to support said conclusion.

(c) The findings of fact of the Board do not support said conclusion.

(68) The Board erred in its Decision and Order of September 19, 1939, in its conclusion of law as follows:

"5. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act."

for the reasons that—

(a) Said conclusion is against the law.

(b) There is no evidence in the record to support said conclusion.

(c) The findings of fact of the Board do not support said conclusion.

(69) The Board erred in its Decision and Order of September 19, 1939, in its conclusion of law as follows:

"6. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act."

for the reasons that—

[fol. 719] (a) Said conclusion is against the law.

(b) There is no evidence in the record to support said conclusion.

(c) The findings of fact of the Board do not support said conclusion.

(70) The order of the Board included in said decision and order of September 19, 1939, is erroneous for the reasons that—

(a) Said order, and each and every part thereof, is not supported by any evidence.

(b) Said order, and each and every part thereof, is against uncontradicted evidence in the record.

(c) That said order, and each and every part thereof, is not justified or supported by the findings of fact of the Board.

(d) By said order, and each and every part thereof, the Board has exceeded its authority and the same is against the law.

(71) Your petitioner respectfully asserts that it is aggrieved by the aforesaid orders of the National Labor Relations Board and that it does except to the same for each and all of the reasons herein set out.

Wherefore, your petitioner respectfully prays:

(1) That certified copies of this petition be forthwith served upon the National Labor Relations Board, the Federation of Flat Glass Workers of America and the Crystal City Glass Workers' Union;

[fol. 720] (2) That said National Labor Relations Board be required to certify for filing with the United States Circuit Court of Appeals for the Eighth Circuit a transcript of the entire record in Case No. R-1058 and Case No. C-1222, together with five additional copies thereof.

(3) That said Decision and Certification of the Board of January 13, 1939, in Case No. R-1058 and said Order of

the Board of September 19, 1939, in Case No. C-1222, be set aside and vacated;

(4) That said Decision and Certification of the Board of January 13, 1939, in Case No. R-1058 be amended so as to find and order that petitioner's employees at its plant at Crystal City, Missouri, known as Works #9, constitute a separate unit for purposes of collective bargaining; and that the Federation of Flat Glass Workers of America does not represent a majority of the employees in said plant and cannot be certified as the representative of said employees for the purposes of collective bargaining.

(5) That said Decision and Order of the Board of September 19, 1939, in Case No. C-1222, be amended so as to find and order that petitioner's employees at its plant in Crystal City, Missouri, known as Works #9, constitute a separate unit for the purposes of collective bargaining, that the Federation of Flat Glass Workers of America does not represent a majority of the employees in said plant, and that petitioner has not been guilty of any unfair labor practices, as charged by the complaint therein.

(6) That your petitioner have such other and further [fol. 721] relief as your Honorable Court may deem just and proper.

Pittsburgh Plate Glass Company, by Wm. L. Igoe, Igoe, Carroll, Keefe & McAfee, Its Attorneys, Boatmen's Bank Building, St. Louis, Missouri. John G. Buchanan, Smith, Buchanan & Ingersoll, of Counsel, 1025 Union Trust Building, Pittsburgh, Pennsylvania.

[fols. 722-737] Exhibit "A" omitted. Printed side page 623 ante.

[fol. 738] [File endorsement omitted]

IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 451, Original

CRYSTAL CITY GLASS WORKERS' UNION, (a Corporation), Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD, Respondent

PETITION FOR REVIEW AND TO SET ASIDE ORDER OF THE NATIONAL LABOR RELATION BOARD—Filed Sept. 22, 1939

Now comes your petitioner and respectfully shows to the Court:

1. That your petitioner is a corporation organized and existing under and by virtue of the laws of the State of Missouri, providing for the incorporation of Pro Forma Decree Corporations, having its principal place of business at Crystal City, Missouri, and within the Eighth Circuit of the United States Circuit Court of Appeals; that it is a labor organization with a membership of sixteen hundred (1600) members, who are employees of the Pittsburgh Plate Glass Company, Plant No. 9, located at Crystal City, Missouri.

2. That under authority of Section 10 (f) of the National Labor Relations Act (hereinafter called the Act), the United States Circuit Court of Appeals for the Eighth Circuit has jurisdiction of the parties and subject matter herein involved and to give the relief prayed for in this petition.

3. On April 4, 1938, Federation of Flat Glass Workers of America, affiliated with C. I. O. (hereinafter called the Federation) filed with the Regional Director for the Sixth Region at Pittsburgh, Pennsylvania, a petition, and on May 13, 1938, an amended petition, alleging that a question affecting commerce had arisen concerning the representa-
[fol. 739] tion of employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, (hereinafter called the Company) at its plants located in Ford City and Creighton, Pennsylvania; Mt. Vernon, Ohio; Clarksburg, West Vir-

gina; Henryetta, Oklahoma; and Crystal City, Missouri; and requesting an investigation and certification of representatives, pursuant to Section 9 (c) of the Act.

4. On May 26, 1938, the National Labor Relations Board (hereinafter called the Board) acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of the Board Rules and Regulations, Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct same, and to provide for an appropriate hearing upon due notice.

5. On September 27, 1938, the Regional Director issued a notice of hearing and pursuant thereto, a hearing was held at Pittsburgh, Pennsylvania, on October 13 and 14, 1938, before Tilford E. Dudley, Trial Examiner, designated by the Board, at which hearing the parties to this proceeding were duly represented.

6. At the opening of the hearing, the Crystal City Union, petitioner herein, requested leave to intervene in the proceeding. The Trial Examiner denied this motion on the ground that the petitioner having been named in the Federation's petition and amended petition as a labor organization, claiming to represent employees directly affected by the investigation, was already a party to the proceeding.

7. The parties were given opportunity to be heard, to examine and cross-examine the witnesses, and to introduce evidence bearing on all the issues, except that the Trial Examiner, because of a Board Decision and Order dated September 22, 1938, in Case No. C-778, wherein the Company was requested to cease and desist "from recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization or any person or group of persons purporting to represent said organization", refused to [fol. 740] allow the petitioner herein to introduce evidence as to its membership or representation of employees.

8. During the hearing, the Company moved that the Board conduct an election among its employees at Crystal City Plant No. 9, to determine their desires concerning representation, and the petitioner herein moved that its name be placed upon any ballot used in any election conducted by the Board among the Company's employees, both of which motions were denied by the Trial Examiner.

9. After the hearing, the Company, the Federation and the petitioner herein filed briefs which the Board duly considered, and on December 20, 1938, pursuant to notice duly served upon all the parties, oral argument in which representatives from the Company and the Federation participated, was heard before the Board in Washington, District of Columbia.

10. On January 13, 1939, the Board made its decision and order, and assigned to the Case No. R-1058, in which it reviewed the statement of the case, made findings of fact, conclusions of law, and upon such findings of fact and conclusions of law, pursuant to Section 9 (c) of the Act, and pursuant to Article III, Section 8 of the Board Rules and Regulations, entered its order of certification in the following form, to-wit:

"It is hereby certified that Federation of Flat Glass Workers of America affiliated with C. I. O. has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees at the flat glass plants of the Company, situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Ford City, and Creighton, Pennsylvania; as their representative for the purpose of collective bargaining, and [fol. 741] that pursuant to the provisions of Section 9 (a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O. is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment."

11. That the aforesaid decision, certification and order of the Board dated January 13, 1939, are erroneous in fact and not sufficient in law and ought to be reviewed by this Honorable Court and set aside for the following reasons:

That the Board erroneously found that the evidence supported the following findings of fact:

(a) That the Crystal City employees of Plant No. 9 of Pittsburgh Plate Glass Company never attempted to bargain with the Company separate from the other plants;

(b) That by virtue of the Board's decision and order in Case No. C-778, based on the stipulation entered into by the Company requiring the Company to cease and desist from recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization or any person or group of persons purporting to represent said organization, ceased to be able to function as a labor organization within the meaning of Section 2 (5) of the Act, and its existence as such at Crystal City then terminated;

(c) That since the Crystal City Union can no longer function as a labor organization, its wishes are immaterial;

(d) That the prior existence of the Crystal City Union for over three years until almost the day of the hearing in this proceeding to a large degree explains the desire of the thirteen hundred (1300) Crystal City employees for a separate bargaining unit, as expressed in their petition, and such desires may well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by these employees;

[fol. 742] (e) That the evidence strikingly reveals the importance to the Federation, to its members and to the employees at all the other flat glass plants of the Company of presenting a united front in dealing with the Company;

(f) That to give effect to the wishes of the thirteen hundred (1300) Crystal City Employees for a separate bargaining unit, as expressed in their petition, would inevitably hamper and obstruct a large number of the Company's employees at the other plants in their efforts to organize and to bargain collectively with the Company;

(g) That a five cent (5¢) wage increase, which was granted to the employees at the conclusion of a ten-day strike, and which was retroactive as to the Crystal City employees, at Plant No. 9, which plant was not closed during the strike and which said employees received because of the strike, was extra pay for work they did to impede the success of the strike;

(h) That the inexperience of the Crystal City employees in collective bargaining is a cogent reason for giving them the benefit and use of the services of the more experienced employees at the other plants by having them bargain together with such employees;

(i) That the wages, the working hours and conditions and the manufacturing processes in effect, at Crystal City differ very little, if at all, from those in effect at the Company's other flat glass plants, and that such differences as exist are not greater than those found among the Company's other flat glass plants;

(j) That the production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees at the Company's flat glass plants, situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Ford City and [fol. 743] Creighton, Pennsylvania; constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the purpose of the Act.

12. Upon the basis of the foregoing erroneous findings of fact and upon the entire record, the Board made the following conclusions of law:

(A) A question effecting commerce has arisen concerning the representation of employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Ford City, Pennsylvania; and Creighton, Pennsylvania; within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

(B) The production and maintenance employees of the Company, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the Company's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

(C) Federation of Flat Glass Workers of America, affiliated with C. I. O. is the exclusive representative of all the employees in such unit for the purposes of collective bar-

gaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

13. Based upon the foregoing erroneous findings of fact and conclusions of law, the Board made the following certification of representation:

By virtue of and pursuant to the power vested in the [fol. 744] National Labor Relations Board by Section 9 (c) of the National Labor Relations Board Rules and Regulations—Series 1, as amended,

"It Is Hereby Certified that Federation of Flat Glass Workers of America, affiliated with C. I. O., has been designated and selected by a majority of the production and maintenance employees of Pittsburgh Plate Glass Company, Pittsburgh, Pennsylvania, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants of the Company situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment."

14. The aforesaid findings of fact, conclusions of law and order of certification are erroneous, are not supported by the testimony and the evidence in the proceedings and facts important to the determination of the issues involved and conclusively established by the testimony in evidence, have been disregarded and omitted therefrom.

15. On January 26, 1939, a charge was filed with the Regional Director for the Sixth Region of the National Labor Relations Board, pursuant to Section 10 (b) of the Act, alleging that Pittsburgh Plate Glass Company has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) and (5) of the Act, in that the Company has refused, upon request, to bargain collectively in respect to rates of pay, wages, hours of employment and other conditions of employment with the Federation as

the exclusive representative of all the employees of the [fol. 745] Company in the unit found by the Board to be appropriate in its decision and certification in Case No. R-1058.

16. Thereafter, on February 20, 1939, the Regional Director for said Sixth Region caused to be served on the petitioner herein a copy of the complaint so issued under Section 10 (b) of the Act, together with a copy of the charge and notice of hearing to be held on March 6, 1939.

17. On said 6th day of March, 1939, a hearing was held before Webster Powell, Trial Examiner, at Pittsburgh, Pennsylvania, at which hearing all parties to the proceeding were duly represented.

18. At the opening of the hearing the Crystal City Union, petitioner herein, requested leave to intervene in the proceeding and requested that hearings be held in Crystal City, Missouri, in order to afford a full and complete inquiry on the issues involved and as to representation at said Plant No. 9. The Trial Examiner granted said motion to intervene but ruled that said Union would not be permitted to adduce evidence on matters decided by the Board in previous hearings, and particularly in Case No. R-1058, 10 N. L. R. B. 102. Thereupon, the Union tendered competent witnesses, who were not allowed to testify on matters competent and material to the issues, because of said ruling by the Trial Examiner.

19. On March 18, 1939, the Trial Examiner filed his intermediate report, copies of which were duly served upon all the parties, finding that the Respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1) and (5) of the Act. He recommended that the Respondent cease and desist from unfair labor practices and that, upon request, it bargain with Federation as the exclusive representative of the employees in the unit found appropriate by the Board in its decision of January 13, 1939.

[fol. 746] 20. After the hearing, the Company and the petitioner herein filed exceptions to the Intermediate Report and to various rulings of the Trial Examiner and briefs in support thereof, which the Board duly considered,

and on June 8, 1939, pursuant to notice duly served upon all the parties, oral argument in which counsel for the Company, the Federation and the petitioner herein participated, was heard before the Board in Washington, D. C.

21. On September 19, 1939, the Board made and entered its decision and order, and assigned to the Case No. C-1222, in which it reviewed the statement of the Case, made findings of fact and conclusions of law, and upon such findings of fact and conclusions of law, pursuant to Section 10 (c) of the Act, entered its decision and orders in the following form and substance, to-wit:

That the Respondent, Pittsburgh Plate Glass Company, its officers, agents, successors, and assigns shall:

"1. Cease and desist from: 333 D 240

(a) Refusing to bargain collectively with Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania, and Ford City, Pennsylvania;

(b) In any other manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. To take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Penn-

sylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post immediately notices to its employees in conspicuous places throughout its flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, [fol. 747] Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, stating: (1) That the respondent will cease and desist as provided in paragraphs 1 (a) and (b) of this Order; and (2) that the respondent will take the affirmative action required by Paragraph 2 (a) of this Order;

(c) Maintain such notices for a period of at least sixty (60) consecutive days from the date of posting;

(d) Notify the Regional Director for the Sixth Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith."

22. That the aforesaid decision and orders of the Board dated September 19, 1939, are erroneous in fact and not sufficient in law and ought to be reviewed and set aside by this Honorable Court for the following reasons:

That the Board erroneously found that the evidence supported the following findings of fact:

(A) That under the petitioner's offer of proof, negotiations between the respondent and the Crystal City Union cannot be regarded by the Board as evidence of genuine collective bargaining; nor can the Crystal City Union's membership and representation of employees at the Crystal City Plant be considered by the Board as expressing the free choice of the employees at that Plant or as establishing the existence of another labor organization, in addition to the Federation, capable of bargaining collectively with the respondent for the employees there.

(B) That the production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a

unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment, and that said unit [fol. 748] insures to employees of the respondent the full benefit of their rights to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

(C) That on January 18 and 19, 1939, and at all times thereafter the Federation was the duly designated representative of a majority of the employees in the appropriate unit, and, pursuant to Section 9 (a) of the Act, was the exclusive representative of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

23. Upon the basis of the foregoing findings of fact, and upon the entire record, the Board made the following conclusions of law:

(a) The production and maintenance employees of the respondent, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at the respondent's flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

(b) By virtue of Section 9 (a) of the Act, Federation of Flat Glass Workers of America, affiliated with C. I. O., having been selected as their representative by a majority of the employees in an appropriate unit, was on January 12, 1939, and at all times thereafter has been, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

24. The aforesaid findings of fact, conclusions of law and orders of the Board are erroneous, are not supported by the testimony in the proceedings and facts important to the determination of the issues involved and conclusively established by the testimony have been disregarded.

[fol. 749] 25. That a sum sufficient to compensate for the transcript, and copies thereof required by the rules of court to be filed herewith, has been deposited with the Board by the Pittsburgh Plate Glass Company who has filed its petition for review.

Wherefore, the decision of the Board and its orders of September 19, 1939, are erroneous in law and fact and therefore the same should be set aside; that an election be ordered to properly determine plant representatives for the purpose of collective bargaining at Plant No. 9 located at Crystal City, Missouri, of the Pittsburgh Plate Glass Company; and your petitioner prays that said Board be requested to certify and file in this Court a transcript of the record of the proceeding before it, together with all original exhibits introduced into evidence by all parties and that upon the filing of said transcripts and exhibits this Court shall proceed forthwith as provided by law to review such decision and orders and set aside the same, and that the allowance of such review may act as a stay of further proceedings before the Board until the questions to be presented in this review are fully determined and adjudicated.

Crystal City Glass Workers' Union (a corporation), by Alfonse L. Laiben. Fred J. Hoffmeister, Attorney for Crystal City Glass Workers' Union.

[fols. 750-751] *Duly sworn to by Alfonse L. Laiben. Jurat omitted in printing.*

[File endorsement omitted.]

[fol. 752] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 450, Original

[Title omitted]

PETITION FOR ORDER CONSOLIDATING PETITION FOR REVIEW IN No. 449, ORIGINAL, WITH No. 450, ORIGINAL—Filed Sept. 25, 1939

Now comes petitioner and respectfully states to the Court that by its petition for review herein it seeks review of certain orders of a decision and certification entered by the Labor Board on January 13, 1939, and of a decision

and order of the National Labor Relations Board made and entered on the 19th day of September, 1939.

That the said decision and certification of January 13, 1939, in effect, designates all of the plants of petitioners as the appropriate unit for purposes of collective bargaining with its employees, certifies the Federation of Flat Glass Workers of America as exclusive representative of petitioner's employees (with minor exceptions) for the purposes of collective bargaining; and

That said decision and order of September 19, 1939, finds and holds petitioner guilty of unfair labor practices in failing to recognize the Federation of Flat Glass Workers of America as such exclusive representative of its employees, all as more fully appears in the petition for review herein and in said orders of the National Labor Relations Board filed herein.

That petitioner has also filed, on September 22, 1939, in this Court a separate petition for review (being Cause No. 449, Original, of this Court) of the decision and certi- [fol. 753] fication of the National Labor Relations Board of January 13, 1939 (referred to above).

That the National Labor Relations Board asserts that the decision and certification is not a final order and is not subject to review. That there is no authority controlling in this Court on that question, that the question is one which should be determined in this jurisdiction, and that your petitioner, in order to insure to itself a full and complete review of the questions involved in all of the aforesaid orders, has believed it necessary to file said petition for review in Cause No. 449, Original.

That the said decision and order of September 19, 1939, is based upon and depends for its validity upon the decision and certification of January 13, 1939, and that there is incorporated in the record, upon which said decision and order of September 19, 1939, is based, all of the testimony and all of the record involved in the proceedings on which said decision and certification of January 13, 1939, was made. That, therefore, a transcript of the record will include everything which would appear in a complete transcript of the record for review of said decision and certification in Cause No. 449, Original.

That the questions and issues herein involved are as related to, connected with, and similar to those involved

in Cause No. 449, Original, of this Court, and that duplication of work both for the counsel and for the Court, as well as duplication of expenses, will result if the petition for review herein is considered separately from the petition for review in Cause No. 449, Original.

That the rights of none of the parties hereto and the rights of none of the parties in Cause No. 449, Original, will be prejudiced or in any wise effected by consolidating the two matters and that, in truth and in fact, such consolidation will assist in a proper determination of the ques-
[fol. 754] tions raised by said petitions for review.

Wherefore, it is prayed that this Court order that the petition for review filed September 22, 1939, being Cause No. 449, Original, of this Court, be consolidated with this cause and that only one record, entitled in both matters, be filed in this Court and for such other and further orders as to the Court seem proper in the premises.

Pittsburgh Plate Glass Company, by Wm. L. Igoe.
Igoe, Carroll, Keefe & McAfee, Its Attorneys.

Duly sworn to by J. W. McAfee. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 755] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 450

[Title omitted]

NOTICE OF PETITION FOR ORDER CONSOLIDATING CASE No. 449, ORIGINAL, WITH CASE No. 450, ORIGINAL, ETC.—Filed Oct. 2, 1939

To National Labor Relations Board, or its attorney, Federation of Flat Glass Workers of America, or its attorney, H. B. Holmes, Esq., and Crystal City Glass Workers Union, or its attorney, Fred J. Hoffmeister, Esq.:

Please be notified that Pittsburgh Plate Glass Company, petitioner in the above-entitled cause, has filed therein the following:

(1). Petition for order consolidating petitions for review.

(2) Petitioner's motion for an order enlarging time for filing petitioner's brief.

(3) Petition for an order staying order of National Labor Relations Board.

Copies of said petitions and motion are attached hereto.

Please be further notified that the above-mentioned petitions and motion will be presented to the United States Circuit Court of Appeals for the Eighth Circuit, in the rooms of said Court on the twentieth floor of the Federal Reserve Bank Building at Kansas City, Missouri, on Mon-
[fol. 756] day, October 2, 1939, at ten o'clock A. M., or as soon thereafter as counsel can be heard.

Pittsburgh Plate Glass Company. By Igoe, Carroll, Keefe & McAfee. Wm. L. Igoe, J. W. McAfee.

The undersigned hereby acknowledges receipt of the attached and foregoing Notice, together with copies of petitions and motion mentioned therein and attached thereto this 28th day of September, 1939.

Robert B. Watts.

(Copy of Notice of Motion to Consolidate, etc., omitted at this place.)

The undersigned hereby acknowledges receipt of the attached and foregoing Notice, together with copies of petitions and motion mentioned therein and attached thereto this — day of September, 1939.

H. B. Holmes, W. T. Lewis, Attys. for Federation.

(Copy of Notice of Motion to Consolidate, etc., omitted at this place.)

The undersigned hereby acknowledges receipt of the attached and foregoing Notice, together with copies of petitions and motion mentioned therein and attached thereto this 29th day of September, 1939.

Fred J. Hoffmeister, Atty. for Crystal City Glass W. Union.

[File endorsement omitted.]

[fol. 757] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 450, Original

[Title omitted]

ORDER CONSOLIDATING No. 449, ORIGINAL, WITH CAUSE No. 450, ORIGINAL—Filed October 3, 1939

Petitioner, Pittsburgh Plate Glass Company, having heretofore filed herein its verified petition to consolidate with this cause the Petition for Review filed September 22, 1939, being Cause No. 449, Original, of this Court, and said petition having been duly presented to and considered by this Court, and it appearing to the Court that to hear said matters separately will result in a duplication of expense and work, and that the consolidation of said causes will not prejudice the rights of any of the parties in said proceedings,

Now, Therefore, be it, and it is hereby, ordered that the Petition for Review filed by Pittsburgh Plate Glass Company on September 22, 1939, being Cause No. 449, Original, of this Court, be consolidated for presentation and hearing in this Court with this cause and that only one record, entitled in both appeals, be filed in this Court.

Dated this 3rd day of October, 1939.

[fol. 758] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 451 (Orig.)

[Title omitted]

PETITIONER'S APPLICATION FOR ORDER CONSOLIDATING CASES Nos. 450 AND 451—Filed Sept. 27, 1939

(1) Comes now petitioner and respectfully shows unto the Court that by its petition herein filed, it seeks review of a decision and order of certification entered of record by the National Labor Relations Board on January 13, 1939, and of a decision and further order of said Board, involving the same subject matter, entered of record on the 19th day of September, 1939.

(2) That case No. 450, original, pending in this Court, is a petition for review filed by Pittsburgh Plate Glass Company, a corporation, vs. National Labor Relations Board, Federation of Flat Glass Workers of America, affiliated with the Congress of Industrial Organizations, and Crystal City Glass Workers' Union, wherein the petitioner seeks a review of the same decisions and orders as set forth in paragraph (1) hereof.

(3) That both Pittsburgh Plate Glass Company and Crystal City Glass Workers' Union were parties to the actions tried before the National Labor Relations Board for which review is sought in this Court, hence the issues, record and transcript of proceedings are the same in Cases Nos. 450 and 451 of this Court and duplication will of necessity result, if said petitions for review are considered separately.

(4) That the entire record and transcript of proceedings [fols. 759-760] before the National Labor Relations Board is being brought into this Court in Case No. 450, as more fully alleged in the petition filed in said case and as required by the rules of this Court. This record will constitute the complete record in Case No. 451.

(5) That the rights of none of the parties in either cause will be prejudiced or in any wise affected by consolidating the two cases; in fact, such consolidation will, we believe, assist the Court in a proper determination of the issues raised in said petitions for review.

Wherefore, petitioner prays for an order of this Honorable Court consolidating this cause with cause No. 450 (original) and that the record in said cause No. 450 to be filed in this Court shall be considered the record in this cause No. 451.

Crystal City Glass Workers' Union,
By Fred J. Hoffmeister, its Attorney.

Duly sworn to by Fred J. Hoffmeister. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 761] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

No. 451, Original

[Title omitted]

ORDER CONSOLIDATING CAUSE NO. 451, ORIGINAL, WITH NO. 450, ORIGINAL—Filed October 3, 1939

Petitioner herein has heretofore on September 27, 1939, filed its verified application for consolidation of this cause with case No. 450, Original, and that the record in said case No. 450, Original, to be filed in this Court, shall be considered the record in this cause. Said petition for consolidation was brought to the attention of this Court on October 2, 1939, and after consideration thereof, It is now here ordered by this Court that said application, be, and is hereby, granted, and this cause is consolidated with case No. 450, Original, and the record in said case No. 450, Original, to be filed in this Court, shall be considered the record in this case No. 451, Original.

October 3, 1939.

[fol. 762] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Nos. 449, 450, 451 consolidated

[Title omitted]

MOTION TO DISPENSE WITH THE REPRODUCTION OF CERTAIN EXHIBITS—Filed Jan. 8, 1940

Now comes the National Labor Relations Board, respondent herein, and respectfully moves this Court for the entry of an order providing that Board Exhibit 4 and those portions of Board Exhibit 3-B, as follows:

Designation in Board Case No. R-1058	Certified transcript of proceedings, pp.
Intervenor Exhibits 1-2, inclusive	489-550, inclusive
Petitioner Exhibits 5-8, inclusive	640-703, inclusive
Petitioner Exhibits 10-11, inclusive	704-721, inclusive
Respondent Exhibit 1	737-877, inclusive
Board Exhibits 4-A - 4-D, inclusive	926-1006, inclusive
Board Exhibits 5-A - 5-C, inclusive	1007-1130, inclusive
Board Exhibits 6-A, - 6-G, inclusive	1131-1293, inclusive

need not be reproduced in quintuple as contemplated by Rule 45 of this Court, but shall be deemed part of the record before the Court, and may be considered by the Court and referred to by the parties, and that each of the parties shall have the right to have any of said exhibits printed and included in the record in the event that petition for certiorari is later filed.

[fol. 763] In support of the foregoing motion, the Board represents as follows:

1. The foregoing exhibits relate to matters which are not in dispute herein; consequently, there will be little or no occasion for the Court to refer to them.

2. Several of the foregoing exhibits are not susceptible of ready reproduction, facsimile reproductions thereof being required.

3. The reproduction of the foregoing exhibits would add unnecessary bulk to the transcript of the proceedings herein and would unnecessarily increase the cost of preparation thereof.

Wherefore, it is respectfully requested that the Board's motion be granted.

Robert B. Watts
Associate General Counsel, National Labor Relations Board.

Dated: January 5, 1940.

[File endorsement omitted.]

[fol. 764] IN UNITED STATES CIRCUIT COURT OF APPEALS

CONSENT TO GRANTING MOTION TO DISPENSE WITH REPRODUCTION OF CERTAIN EXHIBITS, IN NOS. 449, AND 450, ORIGINAL —Filed January 17, 1940

Igoe, Carroll, Keefe & McAfee
Attorneys at Law

Boatmen's Bank Building
314 North Broadway
St. Louis, Missouri

January 16, 1940

Hon. E. E. Koch, Clerk,
U. S. Circuit Court of Appeals,
Saint Louis, Missouri.

Re: Pittsburgh Plate Glass Co., et al., v. National Labor Relations Board—#449, #450, #451.

DEAR MR. KOCH:

The National Labor Relations Board has filed its motion to dispense with the reproduction of certain exhibits.

As attorney for petitioner Pittsburgh Plate Glass Company, I consent that said motion be granted.

Very truly yours.

J. W. McAfee.

JWMcA: ME.

[File endorsement omitted.]

[fol. 765] IN UNITED STATES CIRCUIT COURT OF APPEALS

CONSENT TO GRANTING MOTION TO DISPENSE WITH REPRODUCTION OF CERTAIN EXHIBITS, IN No. 451, ORIGINAL—Filed January 24, 1940

Fred J. Hoffmeister
Attorney at Law

1305 Federal Commerce Trust Bldg.
St. Louis Mo.

January 24, 1940

E. E. Koch, Esq.,
Clerk of the United States
Circuit Court of Appeals,
St. Louis, Missouri.

Re: No. 451 (Original) Crystal City Glass Workers' Union v. National Labor Relations Board.

DEAR MR. KOCH:

I am in receipt of copy of a motion to dispense with the reproduction of certain exhibits, filed by the Respondent in the above case.

As Attorney for the petitioners, I beg to advise you that the petitioners consent to the entry of an order that the motion be granted.

Very truly yours,

Fred J. Hoffmeister.

FJH: ELK.

[File endorsement omitted.]

[fol. 766] UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

[Titles omitted]

ORDER GRANTING MOTION OF RESPONDENT TO DISPENSE WITH REPRODUCTION OF CERTAIN EXHIBITS—Filed January 31, 1940

On consideration of the motion of respondent to dispense with the reproduction of certain exhibits enumerated

in said motion, and petitioners consenting, It is now here Ordered by this Court that said exhibits described in the motion and for the reason stated, need not be reproduced to furnish copies required by Rule 45 of this Court, but shall be deemed part of the record before this Court and may be considered by the Court and referred to by the parties, and that each of the parties shall have the right to have any of said exhibits printed and included in the record in the event that petition for writ of certiorari is later filed in the Supreme Court of the United States.

[fols. 767-768] IN UNITED STATES CIRCUIT COURT OF APPEALS

ANSWER OF THE NATIONAL LABOR RELATIONS BOARD TO PETITION FOR REVIEW AND REQUEST FOR ENFORCEMENT OF ORDER OF THE NATIONAL LABOR RELATIONS BOARD—Filed February 7, 1940

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Eighth Circuit:

Comes now the National Labor Relations Board (hereinafter referred to as the Board), by its Associate General Counsel, Robert B. Watts, and pursuant to the National Labor Relations Act (49 Stat. 449, U. S. C. Supp. III, Title 29, Sec. 151 et seq.) files this answer and request for enforcement of the Board's order.

(1) The Board admits the allegations contained in paragraphs 1-4 inclusive of the petition for review.

(2) Answering the allegations contained in paragraphs 5-14 inclusive of the petition for review, the Board prays reference to the certified record of the proceedings before the Board in case No. R-1058 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with the C.I.O., and case No. C-1222 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, filed herein, for a full and exact statement of the certification of representatives, findings of fact, conclusions of law, order of the Board, and all other proceedings had in said matters before the Board.

(3) The Board admits the allegations contained in paragraph 15 of the petition for review.

(4) The Board denies that it erred in any of the respects set forth in paragraph 16 of the petition for review.

Wherefore, having answered each and every allegation contained in the petition for review the Board prays this [fol. 769] Honorable Court that said petition be denied in so far as it prays (a) that the decision and certification of the Board in case No. R-1058 be set aside or amended; and (b) that the order of the Board in case No. C-1222 be set aside or amended.

Further answering, the Board pursuant to Section 10 (e) and (f) of the National Labor Relations Act, respectfully requests this Honorable Court for the enforcement of its order against petitioner, dated September 19, 1939, in case No. C-1222 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with the C.I.O.

In support of this request for enforcement of this order, the Board respectfully shows as follows:

(a) Petitioner is a Pennsylvania corporation, having its principal office and place of business in the city of Pittsburgh, Commonwealth of Pennsylvania, being authorized to transact business in the State of Missouri within this judicial circuit. This Court has jurisdiction of the petition for review herein and this request for enforcement by virtue of Section 10 (e) and (f) of the National Labor Relations Act.

(b) Upon the proceedings had in case No. C-1222 before the Board including, without limitation, the complaint, answer, hearing for the purpose of taking testimony, trial examiner's report and exceptions filed thereto, and oral argument before the Board had thereon, as more fully shown by the entire record thereof, certified by the Board and filed with this Court herein, to which reference is hereby made, the Board on September 19, 1939, duly stated its findings of fact and conclusions of law, and issued an order directed to petitioner, its officers, agents, successors and assigns, as follows:

[fol. 770] Order

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations

Board hereby orders that the respondent, Pittsburgh Plate Glass Company, its officers agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Federation of Flat Glass Workers of America, affiliated with C.I.O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Federation of Flat Glass Workers of America, affiliated with C.I.O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virgina; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, [fol. 771] Pennsylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post immediately notices to its employees in conspicuous places throughout its flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania; stating: (1) that the respondent will cease and desist as provided in paragraphs 1 (a) and (b) of this Order; and (2) that the respondent

will take the affirmative action required by paragraph 2 (a) of this Order;

(c) Maintain such notices for a period of at least sixty (60) consecutive days from the date of posting;

(d) Notify the Regional Director for the Sixth Region in wrfting within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

(c) Pursuant to Section 10 (f) of the National Labor Relations Act, the Board is certifying and filing with this Court a transcript of the entire record in case No. C-1222 before the Board. Since the foregoing order of the Board in case No. C-1222 is based in part upon facts certified following the investigation concerning representation of the employees made in case No. R-1058, the Board, pursuant to Section 9 (d) of the National Labor Relations Act, is certifying and filing with this Court a transcript of the entire record in said case No. R-1058 before the Board, including the certification issued by the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this answer and request for enforcement and the entire record in said proceedings before the Board, to be served upon petitioner, and that this Court take jurisdiction of the proceedings and of the ques-
[fol. 772] tions determined therein and make and enter upon the pleadings, testimony and evidence and proceedings set forth in the entire record of said proceedings, and upon the order made thereon, a decree denying the petition for review and enforcing in whole said order of the Board set forth above, and requiring petitioner and its officers, agents, successors and assigns, to comply therewith.

Robert B. Watts, Associate General Counsel.

Dated at Washington, D. C., this 5th day of January 1940.

Duly sworn to by Robert B. Watts. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 773] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 450 Original

[Title omitted]

[File endorsement omitted]

ANSWER OF THE NATIONAL LABOR RELATIONS BOARD TO PETITION FOR REVIEW AND REQUEST FOR ENFORCEMENT OF ORDER OF THE NATIONAL LABOR RELATIONS BOARD—Filed Jan. 8, 1940.

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Eighth Circuit:

Comes now the National Labor Relations Board (hereinafter referred to as the Board), by its Associate General Counsel, Robert B. Watts, and pursuant to the National Labor Relations Act (49 Stat. 449, U. S. C. Supp. III, Title 29, Sec. 151 et. seq.) files this answer and request for enforcement of the Board's order.

(1) The Board admits the allegations contained in paragraphs 1-4 inclusive of the petitio.. for review.

(2) Answering the allegations contained in paragraphs 5-14 inclusive of the petition for review, the Board prays reference to the certified record of the proceedings before the Board in case No. R-1058 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with the C. I. O., and case No. C-1222 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, filed herein, for a full and exact statement of the certification of representatives, findings of fact, conclusions of law, order of the Board, and all other proceedings had in said matters before the Board.

(3) The Board admits the allegations contained in paragraph 15 of the petition for review.

[fol. 774] (4) The Board denies that it erred in any of the respects set forth in paragraph 16 of the petition for review.

Wherefore, having answered each and every allegation contained in the petition for review the Board prays this Honorable Court that said petition be denied in so far as it prays (a) that the decision and certification of the Board in case No. R-1058 be set aside or amended; and (b) that the order of the Board in case No. C-1222 be set aside or amended.

Further Answering, the Board, pursuant to Section 10 (e) and (f) of the National Labor Relations Act, respectfully requests this Honorable Court for the enforcement of its order against petitioner, dated September 19, 1939, in case No. C-1222 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated with the C. I. O.

In support of this request for enforcement of this order, the Board respectfully shows as follows:

(a) Petitioner is a Pennsylvania corporation, having its principal office and place of business in the city of Pittsburgh, Commonwealth of Pennsylvania, being authorized to transact business in the State of Missouri within this judicial circuit. This Court has jurisdiction of the petition for review herein and this request for enforcement by virtue of Section 10 (e) and (f) of the National Labor Relations Act.

(b) Upon the proceedings had in case No. C-1222 before the Board including, without limitation, the complaint, answer, hearing for the purpose of taking testimony, trial examiner's report and exceptions filed thereto, and oral argument before the Board had thereon, as more fully shown by the entire record thereof, certified by the Board and filed with this Court herein, to which reference is hereby made, the Board on September 19, 1939, duly stated its findings of fact and conclusions of law, and issued an order directed to petitioner, its officers, agents, successors and assigns, as follows:

Order

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National [fol. 775] Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Pittsburgh Plate Glass Company, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Federation of Flat Glass Workers of America, affiliated with C. I. O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining and other mutual aid and protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with Federation of Flat Glass Workers of America, affiliated with the C. I. O., as the exclusive representative of all its production and maintenance employees, excluding window glass cutters, clerical employees not directly connected with production, and supervisory employees, at its flat glass plants situated in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post immediately notices to its employees in conspicuous places throughout its flat glass plants located in Mt. Vernon, Ohio; Clarksburg, West Virginia; Henryetta, Oklahoma; Crystal City, Missouri; Creighton, Pennsylvania; and Ford City, Pennsylvania, stating: (1) that the respondent will cease and desist as provided in paragraphs 1 (a) and (b) of this Order; and (2) that the respondent will take the affirmative action required by paragraph 2 (a) of this Order;

(c) Maintain such notices for a period of at least sixty (60) consecutive days from the date of posting;

(d) Notify the Regional Director for the Sixth Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

(c) Pursuant to Section 10 (f) of the National Labor Relations Act, the Board is certifying and filing with this Court a transcript of the entire record in case No. C-1222 before the Board. Since the foregoing order of the Board in case No. C-1222 is based in part upon facts certified following the investigation concerning representation of [fol. 776] the employees made in case No. R-1058, the Board, pursuant to Section 9 (d) of the National Labor Relations Act, is certifying and filing with this Court a transcript of the entire record in said case No. R-1058 before the Board, including the certification issued by the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this answer and request for enforcement and the entire record in said proceedings before the Board, to be served upon petitioner, and that this Court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence and proceedings set forth in the entire record of said proceedings, and upon the order made thereon, a decree denying the petition for review and enforcing in whole said order of the Board set forth above, and requiring petitioner and its officers, agents, successors and assigns, to comply therewith.

(S) Robert B. Watts, Associate General Counsel.

Dated at Washington, D. C., this 5th day of January 1940.

[fol. 777] [File endorsement omitted.]

Duly sworn to by Robert B. Watts. Jurat omitted in printing.

[fol. 778] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 451 Original

[Title omitted]

[File endorsement omitted]

ANSWER OF THE NATIONAL LABOR RELATIONS BOARD TO PETITION FOR REVIEW AND REQUEST FOR ENFORCEMENT OF ORDER OF THE NATIONAL LABOR RELATIONS BOARD—Filed Jan. 8, 1940

To the Honorable, the Judges of the United States Circuit Court of Appeals for the Eighth Circuit:

Comes now the National Labor Relations Board (hereinafter referred to as the Board), by its Associate General Counsel, Robert B. Watts, and pursuant to the National Labor Relations Act (49 Stat. 449, U. S. C. Supp. III, Title 29, Sec. 151 et. seq.) files this answer and request for enforcement of the Board's order.

(1) Answering the allegations contained in paragraph 1 of the petition for review, the Board admits that petitioner is a corporation organized and existing under and by virtue of the laws of the State of Missouri, having its principal place of business at Crystal City, Missouri, within this judicial circuit and, averring that the remaining allegations contained in paragraph 1 are not material to any of the issues properly raised herein, neither admits nor denies them.

(2) The Board admits the allegations contained in paragraph 2 of the petition for review.

(3) Answering the allegations contained in paragraphs 3-10 inclusive, and 12-13 inclusive of the petition for review, the Board prays reference to the certified record of the proceedings before the Board in case No. R-1058 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, affiliated [fol. 779] with the C. I. O., filed herein, for a full and exact statement of the Board's certification of representatives, dated January 13, 1939, and all other proceedings had in said matter before the Board.

(4) The Board denies that it erred in any of the respects set forth in paragraphs 11 and 14 of the petition for review.

(5) Answering the allegations contained in paragraphs 15-21 inclusive, and paragraph 23 of the petition for review, the Board prays reference to the certified record of the proceedings before the Board in case No. C-1222 entitled In the Matter of Pittsburgh Plate Glass Company and Federation of Flat Glass Workers of America, filed herein, for a full and exact statement of the pleadings, evidence, rulings of the trial examiner, findings of fact, conclusions of law, and order of the Board, and all other proceedings had in said matter before the Board.

(6) The Board denies that it erred in any of the respects set forth in paragraphs 22 and 24 of the petition for review.

(7) The Board admits the allegations contained in paragraph 25 of the petition for review.

Wherefore, having answered each and every allegation contained in the petition for review, the Board prays this Honorable Court that said petition be denied in so far as it prays (a) that the Board's order be set aside; (b) that an election be ordered; and (c) that the allowance of the review herein act as a stay of further proceedings before the Board.

s/ Robert B. Watts, Associate General Counsel.

Dated at Washington, D. C., this 5th day of January 1940.

[fol. 780] [File endorsement omitted.]

Duly sworn to by Robert B. Watts. Jurat omitted in printing.

[fol. 781] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 450

[Title omitted]

PETITION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE—Filed Feb. 7, 1940

Comes now Pittsburgh Plate Glass Company, petitioner herein, and makes application for leave to adduce additional

evidence pursuant to the provisions of the National Labor Relations Act and particularly Sections 160 (e) and (f) of Title 29, U. S. C. A. The evidence which petitioner desires to adduce is as follows:

(1) Evidence that the Crystal City Glass Workers Union has a membership of approximately 1500 employees out of a present total of approximately 1800 employees on the payroll at the Crystal City plant of the Pittsburgh Plate Glass Company.

(2) Evidence that the members of the Crystal City Glass Workers Union, some 1500 in number, being a majority of all the employees at the Crystal City plant, have designated and selected that union as their representative for collective bargaining in respect to rates of pay, wages, [fol. 782] hours of employment and other conditions of employment.

(3) Evidence that the members of the Crystal City Glass Workers Union are opposed to being represented for purposes of collective bargaining by the Federation of Flat Glass Workers of America, affiliated with the CIO.

(4) Evidence that the Crystal City Glass Workers Union is not dominated, nor was its formation interfered with, nor has its administration been interfered with, by the Pittsburgh Plate Glass Company.

(5) Evidence that since the hearing in the certification case on October 13 and 14, 1938, the Crystal City Glass Workers Union has not been dominated, nor has its formation or administration been interfered with by the Pittsburgh Plate Glass Company, and that there has been no such domination or interference since July 22, 1938, the date of the complaint case in the Fourteenth Region, Case No. C-778.

(6) Evidence that the Crystal City Glass Workers Union bargained collectively for its members with the Pittsburgh Plate Glass Company until the company declines to continue such bargaining in view of a complaint filed by the Federation of Flat Glass Workers before the Board in the Fourteenth Region in Case No. C-778, to which the Crystal City Glass Workers Union was not a party.

(7) Evidence that since the stipulation entered into between the Board, the Federation of Flat Glass Workers

[fol. 783] of America, and the Pittsburgh Plate Glass Company in Case No. C-778 in the Fourteenth Region on July 22, 1938, the membership of the Crystal City Glass Workers Union has increased by 448, and that of said number 263 have become members of that union since January 13, 1939; the date of the certification of the Federation as the exclusive representative of the designated employees in all of the plants of the Pittsburgh Plate Glass Company's flat glass divisions, including the plant at Crystal City, Missouri.

(8) Evidence that not only since the stipulation previously referred to of July 22, 1938, but since the decision of the Board in the certification case on January 13, 1939, the Crystal City Glass Workers Union has continued to be an active organization for the purposes for which it was chartered, as shown by its by-laws (Intervenor's Ex. 1), though its activity in the matter of collective bargaining has been restricted by the stipulation made in the case to which it was not a party.

Your petitioner respectfully states to the Court that there were reasonable grounds for its failure to adduce such evidence in the hearing before the Board and its agents and that said grounds are as follows:

Evidence on the subject referred to in Para. (1), above, was offered in a hearing before a trial examiner for the National Labor Relations Board in Case No. VI-R-91 (R. 430-432) and was also offered in a hearing before a trial examiner for the National Labor Relations Board in Case No. VI-C-319 (R. 36-39). In both instances the evidence [fol. 784] so offered was excluded by the trial examiner. In both instances petitioner excepted to the action of the trial examiner and objected and excepted to the exclusion of such evidence in argument and brief filed with the National Labor Relations Board, but said Board affirmed the ruling of its trial examiner and sustained the exclusion of such evidence.

Evidence on the subjects referred to in Paras. (2) to (8) was offered in a hearing before a trial examiner for the Board in Case No. VI-C-319, Board's Case No. C-1222, and was excluded by said trial examiner (R. 39-45). Petitioner excepted to such action of the trial examiner and objected and excepted to the exclusion of such evidence in argument and brief filed with the National Labor Relations

Board, but said Board affirmed the ruling of its trial examiner and sustained the exclusion of such evidence.

Petitioner has always been willing to bargain collectively at each of its plants with any labor organizations which represented a majority of the employees at such plant and has always contended, and now contends, that it has neither the legal nor the moral right to ignore the wishes of a majority of its employees in any one of its plants as to their choice of bargaining agent.

The undisputed evidence in the record shows that Works No. 9, at Crystal City, is a separate plant operated as a separate unit, and that it is an appropriate unit in itself for purposes of collective bargaining; that as an appropriate unit for said purposes, the wishes of the employees therein are controlling on the question of whether said plant shall be included in a larger or so-called "company" unit. [fol. 785] That said evidence is material to show: That both the Pittsburgh Plate Glass Company and its employees at Works No. 9, at Crystal City, Missouri, have regarded and treated said plant as a separate unit for collective bargaining; that the National Labor Relations Board, by its decision and certification of January 13, 1939, and its decision and order of September 19, 1939, has arbitrarily and illegally attempted to force upon the employees of Works No. 9, at Crystal City, Missouri, a bargaining agent which is not desired by a majority of said employees; that the Crystal City Glass Workers Union is, and has been since its formation, an active labor organization attempting to represent its members, and that it has never at any time been dominated or interfered with by the Company; the changes which have occurred in the membership of the Crystal City Glass Workers Union subsequent to the Board's order to withdraw recognition from said union and since the Board's order certifying the Federation of Flat Glass Workers as the exclusive bargaining agent.

Your petitioner respectfully directs the Court's attention to the fact that the Board, in its decision and certification case, No. C-1222 (R. 1421), found that the desires of the employees of the Company at Crystal City, Missouri, may "well undergo a radical change as the effect of the termination of the Crystal City Union's function as a labor organization is fully realized by these employees" (R. 111), whereas the evidence offered by petitioner and excluded by the Board, and which petitioner now seeks leave to adduce,

will show that said finding is not a fact and that since the stipulation and order withdrawing recognition of said union its membership has increased and that there has been a further increase since the decision and certification of the Board of January 13, 1939, certifying the Federation of [fol. 786] Flat Glass Workers as the exclusive representative; that the Board found in its decision and order that the Crystal City employees never attempted to bargain with the Company separately from the other plants (R. 110), whereas the evidence offered and excluded by the Board, and which petitioner now seeks leave to adduce, will show that said finding is not the fact; that the Board found in its decision and certification case, No. C-1222, that the membership of the Crystal City Union is "coerced and not voluntary" (R. 1432), whereas there is no evidence in the record to support that fact, and the evidence offered by petitioner and excluded by the Board, and which petitioner now seeks leave to adduce, will show that said finding is not the fact.

Whereas, petitioner prays the Court to make and enter its order ordering and directly that such additional evidence on the subjects referred to in Paras. (1) to (8), inclusive, of this petition, and each of said paragraphs, be taken before the National Labor Relations Board, its members, agent or agency, and be made a part of the transcript in this petition for review.

Pittsburgh Plate Glass Company
By Igoe, Carroll, Keefe & McAfee, J. W. McAfee,
Its Attorneys.

[File endorsement omitted.]

[fol. 787] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 451 (Original)

[Title omitted]

PETITION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE—Filed Feb. 8, 1940

(1) Comes now Crystal City Glass Workers Union, petitioner herein, and makes application for leave to adduce

additional evidence, pursuant to the provisions of Section 10 (e) of the National Labor Relations Act, and Sections 160 (e) and (f) of Title 29, U. S. C. A., with reference to the following matters:

(a) That the Crystal City Glass Workers Union has a membership of approximately 1500 out of a total of approximately 1800 employees on the payroll at the Crystal City Plant No. 9 of the Pittsburgh Plate Glass Company, being a majority of all the employees at the said plant.

(b) That the members of said Crystal City Glass Workers Union have designated and selected it as their representative for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and others conditions of employment, and that they are opposed to being represented for the purposes of collective bargaining by the Federation of Flat Glass Workers of America affiliated with C. I. O.

(c) That said Crystal City Glass Workers Union is not dominated nor has its formation or administration ever been interfered with or dominated by the Pittsburgh Plate Glass Company, and that the said company has at no time [fol. 788] ever contributed financial aid or other support to it.

(d) That the employees at the Crystal City Plant of the Pittsburgh Plate Glass Company have separate and distinct interests from the employees at the other plants of said company, and that Plant No. 9 at Crystal City, Missouri, is a plant complete in itself.

(e) That the representatives of the Crystal City Glass Workers Union had bargained collectively for its members with the Pittsburgh Plate Glass Company until said Company declined to continue such bargaining because of a complaint which was filed by the Federation of Flat Glass Workers of America before the 14th Regional Labor Board in Case C-778, to which the said Crystal City Glass Workers Union was not a party, and which case was determined by stipulation entered into between the Company, the Federation of Flat Glass Workers of America and the National Labor Relations Board on July 22, 1938.

(f) That since the execution of said stipulation between the parties aforesaid and since the certification of the Fed-

eration of Flat Glass Workers of America as the representative for collective bargaining for the employees at all of the flat glass plants of the Company on January 13, 1939, in Case No. R-1058 before the Board, the membership of the Crystal City Glass Workers Union has steadily increased in numbers.

(2) That such additional evidence is material to the issues in this case on the question of the appropriate bargaining unit for the employees at the said Crystal City Plant No. 9 of the Pittsburgh Plate Glass Company.

(3) That there were reasonable grounds for the failure to adduce such evidence at the hearing before the Board and its agents. That such evidence on the subjects referred to in paragraph (1) above was offered in a hearing before a Trial Examiner for the National Labor Relations Board in [fol. 789] Case #VI-R-91, R-1058 (R. pp. 430-432) and was also offered in a hearing before a Trial Examiner for the National Labor Relations Board in Case No. VI-C-319, C-1222 (R. pp. 30-33). In both instances the evidence so offered was excluded by the Trial Examiners, petitioner excepted to the action of the Trial Examiners, and objected and excepted to the exclusion of such evidence when the matter was presented before the National Labor Relations Board on briefs and argument, but that said Board affirmed the rulings of its Trial Examiners and sustained the exclusion of such evidence.

(4) That undisputed evidence in the record shows that Plant No. 9 at Crystal City is a separate unit of the Pittsburgh Plate Glass Company operated independently and separately from the other units of the Company, and is therefore an appropriate unit in itself for the purposes of collective bargaining, and that the wishes of the employees at said plant are controlling on the question of the appropriate bargaining unit.

(5) That said evidence, as set forth in paragraph (1) hereof is also material to show that the National Labor Relations Board by its decision and certification of January 13, 1939, and its decision and order of September 19, 1939, has arbitrarily and illegally attempted to force upon the employees of Plant No. 9 at Crystal City, Missouri, a bargaining agent which is not desired by a majority of said employees.

Wherefore, this petitioner prays the Court to make and enter its order directing that such additional evidence on the matters referred to in paragraph (1) above be taken before the National Labor Relations Board, its member, agent or agency, and be made a part of the transcript in this petition for review.

Crystal City Glass Workers Union, Petitioner, by Fred J. Hoffmeister, Its Attorney.

[File endorsement omitted.]

[fol. 790] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 449, Orig.

No. 450, Orig.

[Titles omitted]

SUGGESTIONS OF PETITIONER CONCERNING PETITION FOR LEAVE TO ADDUCE ADDITIONAL EVIDENCE—Filed Feb. 27, 1940

Now comes Pittsburgh Plate Glass Company, petitioner herein, and respectfully shows to the Court that at the hearings included in the record herein it offered certain evidence which was excluded by the Trial Examiners and the exclusion approved by respondent National Labor Relations Board. That your petitioner excepted to the action of said Trial Examiners and of the Board and in order to preserve the points raised thereby for review by this Court, under the ruling announced in Consolidated Edison Company v. N. L. R. B., 305 U. S. 197, 59 S. Ct. 206, 83 L. Ed. 126, has filed herein its Petition for Leave to Adduce Additional Evidence.

That the points raised by said Petition for Leave To Adduce Additional Evidence are closely related to other issues raised by the Petitions for Review herein and it will be necessary for the Court to inform itself as to the contents of the entire record in order to pass upon the materiality and admissibility of the evidence sought to be adduced.

[fol. 791] Accordingly, your petitioner respectfully suggests that said Petition for Leave to Adduce Additional

Evidence not be considered separately but that it be treated as part of the whole case and that the Court hear oral arguments thereon at the time arguments are presented on the Petitions for Review and that said petition be considered and ruled upon together with all of the other issues involved herein.

Igoe, Carroll, Keefe & McAfee, J. W. McAfee, Attorneys for Petitioner Pittsburgh Plate Glass Company.

The undersigned acknowledge receipt of a copy of the foregoing Suggestions Concerning Petition for Leave to Adduce Additional Evidence, join in the suggestions therein made and respectfully recommend to the Court that such suggestions be adopted.

National Labor Relations Board, by Robert B. Watts, Its Attorney. Federation of Flat Glass Workers of America, By Its Attorneys. Crystal City Glass Workers Union, By Fred J. Hoffmeister, Its Attorney.

[File endorsement omitted.]

[fol. 792] IN UNITED STATES CIRCUIT COURT OF APPEALS
EIGHTH CIRCUIT

[Titles omitted]

ORDER OF SUBMISSION—May 17, 1940

These causes came on this day to be heard on the petitions for review of the decision and order of the National Labor Relations Board, the Answer of the Board and Request for Enforcement of its order, and on the petition of the Pittsburgh Plate Glass Company for leave to adduce additional evidence. Argument was commenced by Mr. J. W. McAfee for petitioner Pittsburgh Plate Glass Company and the petitioner Crystal City Glass Workers' Union submitted its petition for review on brief without oral argument; Mr. Lawrence A. Knapp, Attorney, National Labor Relations Board, presented oral argument for the respondent and Mr. J. W. McAfee concluded the argument for the Pittsburgh Plate Glass Company.

Thereupon, these causes were submitted to the Court on the petition to review, the answer thereto, the record of proceedings before the said Board, the petition of the Pittsburgh Plate Glass Company for leave to adduce additional evidence, and the briefs of counsel filed herein.

[fol. 793] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

May Term, A. D. 1940

Nos. 449, 450, 451, Original (Consolidated)

PITTSBURGH PLATE GLASS COMPANY and CRYSTAL CITY GLASS WORKERS' UNION, Petitioners

vs.

NATIONAL LABOR RELATIONS BOARD, Respondent*

On Petitions for Review, and on Request for Enforcement of an Order of the National Labor Relations Board

Mr. J. W. McAfee (Messrs. Igoe, Carroll, Keefe & McAfee, Mr. Leland Hazard and Mr. Joseph T. Owens were with him on the brief) for Petitioner, Pittsburgh Plate Glass Company.

Mr. Fred J. Hoffmeister submitted brief for Petitioner, Crystal City Glass Workers' Union.

Mr. Laurence A. Knapp, Assistant General Counsel, National Labor Relations Board, (Mr. Charles Fahy, General Counsel, National Labor Relations Board, Mr. Robert B. Watts, Associate General Counsel, National Labor Relations Board, and Mr. Mortimer B. Wolf and Mr. Owsley [fol. 794] Vose, Attorneys, National Labor Relations Board, were with him on the brief) for Respondent.

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* For convenience we use the above title as that of the consolidated cases. Nos. 449 and 450, Orig., are entitled: "Pittsburgh Plate Glass Company, Petitioner, vs. National Labor Relations Board, Federation of Flat Glass Workers of America, Affiliated with the Congress of Industrial Organizations, and Crystal City Glass Workers' Union, Respondents." No. 451, Orig., is entitled: "Crystal City Glass Workers' Union, Petitioner, vs. National Labor Relations Board, Respondent."

Before Gardner and Sanborn, Circuit Judges, and Collet, District Judg

OPINION—July 23, 1940

Sanborn, Circuit Judge, delivered the opinion of the Court.

The Pittsburgh Plate Glass Company, a Pennsylvania corporation, and the Crystal City Glass Workers' Union, an unaffiliated labor organization of the employees of the Company at its plant in Crystal City, Missouri, have petitioned for a review of an order of the National Labor Relations Board, the effect of which order is to require the Company to recognize its production and maintenance employees (with certain exceptions) at its six flat glass plants as the appropriate unit for collective bargaining; to require the Company to bargain collectively with the Federation of Flat Glass Workers of America as the representative of all such employees; and to forbid the Company to bargain with the representative of its employees at its Crystal City plant.

The main question presented is whether the Board's determination that the designated employees at all of the flat glass plants of the Company constituted an appropriate unit for collective bargaining, is arbitrary and capricious and therefore void.

The petitioners contend that the Board, in selecting the employees at the Company's six flat glass plants as an appropriate bargaining unit did so arbitrarily and in disregard of the wishes of some 1500 of the 1800 employees of the Company at Crystal City, Missouri; that the Board's reasons for determining that the employees at all of the plants of the Company were an appropriate unit for purposes of collective bargaining are specious and unsupported by evidence; that the Board excluded evidence as to the [fol. 795] wishes of the employees at the Crystal City plant, in violation of the Fifth Amendment to the Constitution of the United States; that the history of the collective bargaining which had been carried on within the unit designated did not justify the Board's decision; that its decision is inconsistent with its rulings in other cases; and that Section 9(b) of the National Labor Relations Act [§9(b), 49 Stat. 453; 29 U. S. C. §159(b)] is an unconstitutional delegation of legislative power.

The Company is engaged in the manufacture, sale and distribution, among other things, of various types of flat

glass and is a large employer of labor in connection therewith. It has, in all, six plants where such glass is made: two in Pennsylvania, and one in each of the following states: Ohio, West Virginia, Oklahoma, and Missouri (the Crystal City plant). A majority of all of its employees in the flat glass division of its business and a majority of all of its employees in each of its flat glass plants, excluding the plant at Crystal City, belonged to the Federation of Flat Glass Workers of America, a labor union affiliated with the Congress of Industrial Organizations. That union has been the representative of the flat glass workers in the plants, excepting those at Crystal City, for purposes of collective bargaining. The employees of the Crystal City plant had an independent labor organization known as the Crystal City Glass Workers' Union, which the Company had recognized as their bargaining representative. This was the situation when the Federation initiated, through the National Labor Relations Board, a proceeding which resulted in a determination by the Board that the Company should withdraw its recognition of the Crystal City Glass Workers' Union as the representative of its employees at Crystal City, on the ground that the union was Company-dominated and supported; a further proceeding which resulted in a determination by the Board that the appropriate unit for collective bargaining was the [fol. 796] maintenance and production forces at all six glass plants of the Company, and that the Federation was the collective bargaining representative for all such employees in that unit; and a final proceeding which resulted in a determination by the Board that the Company, in refusing to accept the Board's determination as to the appropriate bargaining unit and in failing to recognize and bargain with the Federation as the representative of all employees in such unit, was guilty of an unfair labor practice.

The Crystal City plant is some 600 miles away from any other plant of the Company. The manufacturing methods employed in producing flat glass at that plant differ in some respects from those employed at other plants of the Company. The Crystal City plant has its own superintendent, who employs and discharges those who work in the plant. The business of the Company at that plant is subject to a large measure of local control. The various plants of the Company do not exchange employees. All employees are, however, those of the Com-

pany, are paid by it and are subject to its control; all are engaged in furtherance of the same general enterprise—the manufacture of flat glass—and all have been treated substantially alike so far as wages, hours and conditions of employment are concerned. The flat glass division of the Company is a combination of plants, rather than an aggregation of plants. The Board, under the facts and circumstances disclosed by the evidence, properly might have determined that the employees at the Crystal City plant were a homogeneous group whose wishes as to representation for the purposes of collective bargaining should be respected and who constituted an appropriate unit for collective bargaining; but we think that it was not compelled to do so.

It must be remembered that, within the limits of the jurisdiction conferred upon it, the power of a court or an administrative board to decide questions is not confined to [fol. 797] deciding them correctly. Thompson v. Terminal Shares, 8 Cir., 89 F. 2d 652, 655. A jury may decide incorrectly issues of fact, but if its verdict is within the evidence its mistakes of fact cannot be corrected on review. Elzig v. Gudwangen, 8 Cir., 91 F. 2d 434, 444. And the determination by a legislative body of a debatable question which it has power to decide is not subject to judicial reexamination. United States v. Carolene Products Co., 304 U. S. 144, 154. The determination of certain matters was, under the National Labor Relations Act, entrusted by Congress to the National Labor Relations Board alone, and the courts were denied power to substitute their judgments with respect to such matters for those of the Board. National Labor Relations Board v. Waterman Steamship Co., 309 U. S. 206, 226. "A controversy like this always calls for fresh reminder that courts must not substitute their notions of expediency and fairness for those which have guided the agencies to whom the formulation and execution of policy have been entrusted." Railroad Commission of Texas v. Rowan & Nichols Oil Co., — U. S. —, —, 60 S. Ct. 1021, 1024. See, also, National Labor Relations Board v. Bradford Dyeing Ass'n, — U. S. —, —, 60 S. Ct. 918, 930.

One of the matters entrusted solely to the Board is the determination of the appropriate unit for the purposes of collective bargaining. Section 9(b) of the Act [§159(b), Tit. 29, U. S. C.] provides: "The Board shall decide in each case whether, in order to insure to employees the full bene-

fit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this chapter, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof." This obviously gives to the Board a wide—though not an absolute—discretion in the selection of the appropriate bargaining unit. The decision of the Board is conclusive unless arbitrary or capricious. [fol. 798] National Labor Relations Board v. Lund, 8 Cir., 103 F. 2d 815, 819; International Ass'n, etc., v. National Labor Relations Board, App. D. C., 110 F. 2d 29, 46; Bussman Mfg. Co. v. National Labor Relations Board, 8 Cir., 111 F. 2d 783, 785.

If the facts before the Board were such that all reasonable minds must honestly draw the same conclusion from them with respect to what would constitute an appropriate bargaining unit, that question would become a question of law, rather than one of fact. In such a situation, a wrong determination of the question by the Board would be subject to reversal as being purely arbitrary. That, we think, is not the situation here presented. The Board was required to select the unit which in its judgment would best serve the public policy declared in the Act. The public interest, as well as that of the various groups of employees of the Company, was to be considered, and the question as to what bargaining unit would best effectuate the purposes of the Act and prevent obstructions to interstate commerce by encouraging collective bargaining and protecting its exercise (National Licorice Co. v. National Labor Relations Board, 309 U. S. 350, 362, 60 S. Ct. 569, 576) was a debatable question to be determined by the Board. See and compare National Labor Relations Board v. Carlisle Lumber Co., 9 Cir., 99 F. 2d 533, 537.

It cannot truthfully be said that the employees in the unit selected by the Board are not subject to common centralized control, that there is no similarity or interrelation of the work which all of them do, that the wages and hours and working conditions are substantially different, that the products which they make at the different plants vary in essential particulars, or that one representative for all of the employees could not bargain for them as effectively or successfully as could one representative for a part of them and another representative for another part. It seems unfortunate that the employees at the Crystal City plant

[fol. 799] should be forced to accept a representative, for collective bargaining, not of their own choosing, but that situation is not an unusual one with minorities. The fact that it was the wish of the vast majority of the employees at the Crystal City plant to have that plant treated as a separate unit for purposes of collective bargaining was presented to the Board and was considered by it. There is nothing in the history of the collective bargaining between the Company and its employees which, in our judgment, would, as a matter of law, preclude the Board from determining that the production and maintenance employees at the six flat glass plants were an appropriate bargaining unit. Our conclusion is that the decision of the Board was not arbitrary or invalid.

The contention that §9(b) of the Act is unconstitutional, we regard as without merit. The validity of the Act as an entirety has been sustained. National Labor Relations Board v. Friedman-Marks Clothing Co., 301 U. S. 58; National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U. S. 1. There is no substantial basis for believing that such a vital part of the Act as §9(b) could now be successfully challenged or invalidated as an unlawful delegation of legislative power.

The petitioners complain of the refusal of the Board to admit evidence as to the wishes of the employees at the Crystal City plant with respect to representation. It appears that the Board had before it a petition showing that 1300 of the employees at that plant desired that it be designated as an appropriate unit for collective bargaining. It also appears that in June, 1938, the Federation had filed a complaint with the Board charging that the Company had dominated and supported the formation and administration of the Crystal City Glass Workers' Union which represented a vast majority of the employees at the Crystal City Plant; that the Board had charged the Company with an unfair labor practice in that regard; and that at a [fol. 800] hearing before the Board—at which the Crystal City Union did not appear—an order was entered by the Board, pursuant to a stipulation of the Company, the Federation and the Board, that the Company cease and desist "from recognizing or dealing with the Crystal City Glass Workers' Union as a labor organization, or any person or group of persons purporting to represent said organization." This Court entered a decree providing for the en-

forcement of this order. 102 F. 2d 1004. In subsequent proceedings before the Board, dealing with the question of representation, the Crystal City Union and the Company offered evidence to prove that 1500 of 1800 employees at the Crystal City plant desired to be treated as a unit for purposes of collective bargaining and desired to be represented by the Crystal City Union, and that that union had not been, and was not, dominated or supported by the Company. It was contended that, since the Union had not been a party to the proceeding which resulted in the order compelling the Company to withdraw recognition from the Union, it was not bound by such order. The trial examiner excluded the evidence. The Board, in its decision and order under review, considered the rulings of the examiner and stated that, even if the facts which the petitioners offered to prove were accepted as true, the Board would not alter its determination as to what constituted the appropriate unit for collective bargaining, and that therefore the petitioners had not been prejudiced by the rulings of the trial examiner.

While we think that the practice followed by a trial examiner in taking evidence and ruling upon objections thereto should be that which applies to special masters in equity proceedings (see Garden City Feeder Co. v. Commissioner of Internal Revenue, 8 Cir., 75 F. 2d 804, 807 and cases cited), rather than that which prevails in courts of law when a jury is present, and that the record should contain all evidence offered by any party in interest, except such as [fol. 801] is palpably incompetent, we are unable to see how a remand of this controversy for the taking of the rejected testimony would be warranted under the circumstances or would amount to anything more than a postponement of the inevitable. The evidence which was before the Board adequately disclosed that the Federation did not represent, and had never represented, a majority of the employees at the Crystal City plant, and that it was the wish of a vast majority of those employees that they be treated, for bargaining purposes, as a separate unit and be permitted to select their own representative. The Company, because of the cease and desist order of the Board, was precluded from recognizing the Crystal City Union as the representative of its employees at Crystal City. There is nothing in the record which would justify a conclusion that the stipulation of the Company, pursuant to which that order of the

Board was entered, constituted any breach of faith by the Company with its employees at Crystal City or was intended to defeat their rights to organize and bargain collectively. Under the circumstances, we think that the exclusion of evidence, of which the Company and the Crystal City Union complain, was not a denial of due process nor prejudicial error requiring a reversal of the order of the Board. For the same reasons, we think that the motions of the petitioners to be permitted to adduce additional evidence before the Board to prove what the rejected evidence would have proved, should be denied.

Our conclusion is that the order of the Board, reversal of which is sought, is a valid order. The request of the Board for the enforcement of the order is granted.

[fol. 802] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

No. 449, Original

PITTSBURGH PLATE GLASS COMPANY, Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD, FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated With the Congress of Industrial Organizations, and Crystal City Glass Workers' Union

No. 450, Original

PITTSBURGH PLATE GLASS COMPANY, Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD, FEDERATION OF FLAT GLASS WORKERS OF AMERICA, Affiliated With the Congress of Industrial Organizations, and Crystal City Glass Workers' Union

No. 451, Original

CRYSTAL CITY GLASS WORKERS' UNION, Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD

DECREE—July 23, 1940

On Petitions for Review, and on Request for Enforcement of an Order of the National Labor Relations Board

These matters came on to be heard on the petition of the Pittsburgh Plate Glass Company and the Crystal City Glass

Workers' Union for review of an order of the National Labor Relations Board, the effect of which order is to require the Company to recognize its production and maintenance employees (with certain exceptions) at its six flat glass plants as the appropriate unit for collective bargaining, to require the Company to bargain collectively with the Federation of Flat Glass Workers of America as the representative of all such employees, and to forbid the Company to bargain with the representative of its employees at its Crystal City plant; on the answer of the Labor Board to said petitions and the request for enforcement of its order; the motion of petitioners for leave to adduce additional evidence before the Board, and the several matters were argued by counsel.

[fol. 803] On Consideration Whereof, it is now here ordered, adjudged and decreed by this Court that the motion of petitioners to be permitted to adduce additional evidence before the Board is hereby denied, and the order of the said Labor Board is now by this Court held a valid order and the request of the Board for enforcement of its said order is hereby granted. It is further ordered, adjudged and decreed by this Court that the petitioners, Pittsburgh Plate Glass Company and the Crystal City Glass Workers' Union, are each hereby ordered to comply with the provisions of the order of the said Board complained of.

And it is further ordered by this Court that no costs be taxed in favor of either of the parties in these matters in this Court.

[fol. 804] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Nos. 449, 450, 451, Orig. (Consolidated)

[Title omitted]

MOTION OF PETITIONER PITTSBURGH PLATE GLASS COMPANY FOR REHEARING—Filed August 3, 1940

Now comes petitioner Pittsburgh Plate Glass Company, within fifteen days after the opinion, decision, orders and decrees made and entered by this Court on the 23rd day of July, 1940, and moves the Court to set the same aside and to order a rehearing on the issues and controversies

involved in these consolidated petitions for review and request for enforcement of order of the National Labor Relations Board, upon the ground that questions of law and fact decisive thereof have been overlooked and not decided by the Court, as shown by its opinion herein.

[fol. 805] Grounds for the Motion

In conformity with the Court's rules, we have tried to avoid reargument of any issue actually determined by the opinion, and where matters already argued to the Court are again referred to it is intended to apply them to matters which we think have been overlooked in the opinion, as follows:

(1) The Board has capriciously and arbitrarily refused to apply factors and standards recognized by it in other cases to the undisputed facts of this record.

(2) The Decision and Certification and Decision and Order of the Board show upon their face that the Board, in reaching its conclusion as to the appropriate unit, relied, to a substantial extent, upon findings which are not supported by evidence.

(3) Since the Crystal City plant is concededly an appropriate unit, the Board is compelled under the Act to allow those employees to have representatives of their own choosing.

(4) The record shows that even though the Board's order may be one which it has the power to make, nevertheless, the record shows upon its face that the order is not the result of a fair and impartial consideration by the Board.

Introduction

The Court has decided that the question of appropriate unit is debatable, and that the Board's order is not "purely arbitrary" as a matter of law.

We respectfully submit, however, that the Court has failed to consider that even though the result is legally possible, the Board's order can be enforced only if the [fol. 806] Board, in arriving at its conclusion, has conformed to the legal and constitutional limitations upon proceedings by administrative agencies.

The ultimate conclusion of the Board is supported by evidence only if the findings upon which that conclusion is based are supported by evidence, and the order is valid only if the proceedings show upon their face that they are the result of a fair and reasonable effort to apply such standards as are established by the Act to legitimate findings.

In N. L. R. B. v. Cherry Cotton Mills, 98 Fed. (2d) 444 (5 C. C. A.—1938), it is said:

"The Court is bound to consider the Constitution and the statutes as they affect the order and touch the manner of its making, as distinguished from the correctness of its conclusions. • • • Congress has committed the ascertainment of the facts to the Board, and those persons whose character and experience and attainments have been considered such as to warrant appointment to it by the President and confirmation by the Senate ought to ascertain them. *If they do not, there is no real finding of facts by the Board; there is no legal basis for an order of the Board."* (l. c. p. 446—emphasis ours.)

The most exhaustive examination that has yet been made of the limitations upon proceedings by administrative bodies is to be found in the Morgan cases, in which the following declarations are to be found:

"It is a duty which carries with it fundamental precedural requirements. There must be a full hearing. There must be evidence adequate to support pertinent and necessary findings of fact. *Nothing can be treated as evidence which is not introduced as such.* • • • Facts and circumstances which ought to be considered must not be excluded. [fol. 807] *Facts and circumstances must not be considered which should not legally influence the conclusion. Findings based on the evidence must embrace the basic facts which are needed to sustain the order."* (Emphasis ours.)

Morgan v. U. S., 298 U. S. 468, 56 S. Ct. 906, l. c. 911, 80 L. Ed. 1288 (1936).

"It is no answer to say that the question for the court is whether the evidence supports the findings and the findings support the order. For the weight ascribed by the law to the findings—their conclusiveness when made within the sphere of the authority conferred—*rests upon the as-*

sumption that the officer who makes the findings has addressed himself to the evidence, and upon that evidence has conscientiously reached the conclusions which he deems to justify it." (Emphasis ours.)

"The vast expansion of this field of administrative regulation in response to the pressure of social needs is made possible under our system by adherence to the basic principles that the Legislature shall appropriately determine the standards of administrative action and that in administrative proceedings of a quasi-judicial character the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. These demand 'a fair and open hearing,' essential alike to the legal validity of the administrative regulation and to the maintenance of public confidence in the value and soundness of this important governmental process. Such a hearing has been described as an 'inexorable safeguard.'"

Morgan v. U. S., 304 U. S. 1, 58 S. Ct. 773, l. c. 775 (on rehearing, p. 999), 82 L. Ed. 1129.

Thus, even though, as the Court says at page 5 of its opinion:

[fol. 808] "The determination of certain matters was, under the National Labor Relations Act, entrusted by Congress to the National Labor Relations Board alone, and the courts were denied power to substitute their judgment with respect to such matters for those of the Board."

nevertheless since, as we will hereinafter show, the Board has capriciously ignored the standards and principles announced by it, has based its conclusions upon findings which are not supported by evidence, and has shown on the face of the record a disregard of the essential elements of a fair hearing, the Board's order is unenforceable.

Despite the Court's holding that the unit fixed is one which the Board could validly designate, we earnestly believe that if the Court will examine the following points it will conclude that the Board has not yet validly determined the issue and that it has thus far failed to comply with limitations which have been called "inexorable safeguards" to the rights of citizens.

I

If, as the Court holds, the Act does contain sufficient standards to conform to constitutional limitations, then the

Board is legally bound to apply those standards objectively, fairly and consistently.

Consistency of principle is the very essence of our constitutional government. Rule by law instead of rule by men can be had only when principles are applied with uniformity. To ignore a factor which is admittedly important under the Act or to pretend to find the existence of factors without evidence, is to act capriciously and illegally.

We fear that we have failed to sufficiently direct the Court's attention to the fact that the Board has failed to [fol. 809] apply the standards which it has repeatedly declared in other cases to be applicable to the problem at hand.

In order to avoid repetition we request the Court to re-examine the cases cited at page 64 et seq. of our original brief and to compare the principles there announced with the Board's assertions in this case. All of the factors are here present which the Board held in the cases cited necessitated the designation of a separate plant unit. The following summary of facts made by this Court cannot be distinguished from other cases in which the Board held that such a unit should be established.

"It cannot truthfully be said that the employees in the unit selected by the Board are not subject to common centralized control, that there is no similarity or interrelation of the work which all of them do, that the wages and hours and working conditions are substantially different, that the products which they make at the different plants vary in essential particulars, or that one representative for all of the employees could not bargain for them as effectively or successfully as could one representative for a part of them and another representative for another part" (p. 7, Court's opinion).

In the cases referred to the Board refused to designate multiplant units, even though the facts were substantially the same as are shown by this record. The Board said that distance between plants, preventing a "prompt and fair exchange of views" by employees; a history of separate bargaining with an individual plant; the contrary wishes of employees in an individual plant; lack of community of interest, and the fact that one plant failed to join in a

strike justify its refusal to impose a companywide unit, even though the relation between the plants was practically the same as exists in this case. These factors are [fol. 810] shown by undisputed evidence to exist here with such similarity as to belie distinction.

The Board appears to have recognized the weakness of its position in this record, for in some instances it made distinguishing findings, which are not supported by evidence. For example, it asserted that the history of collective bargaining favored the unit selected here, when, in fact, the undisputed evidence is to the contrary. It excused its failure to consider the wishes of the employees by assigning reasons which are either unsupported by evidence or are specious.

It cannot be said that the action of the Board in ignoring principles established by it represents a change of view or the correction of past mistakes, because since the order in this case the Board has reaffirmed the statements to which we are calling attention.

In Model Blouse Company, 15 N. L. R. B. 19 (September 7, 1939), the facts were stated by the Board as follows:

"The central office for all five plants is situated in New York City. Practically all the raw materials for the different plants are purchased at the New York City office, and all sales of merchandise are made there. Wage levels and working conditions for all five plants are also set at the New York office. Edward McTague, in addition to his duties as general manager of the Millville plant, also has supervision over the other plants of the respondent. He purchases machinery for all the plants and makes up the patterns and styles. He visits the Landisville and Wheat Road plants every day, the New York City plant weekly, and the Troy plant about once a month."

Nevertheless, the Board designated one plant as a separate unit in the Model Blouse case, and attempts to distinguish the instant case by saying that there was a history of collec- [fol. 811] tive bargaining here which was absent in the Model Blouse case.

As we will show the Court herein, there is no evidence to support that distinction. All of the testimony shows that Crystal City was never included with other plants in bargaining between the Company and employees.

In Allied Laboratories, Inc. (Board's No. R-1763 and No. R-1764), 23 N. L. R. B. 14 (April 25, 1940), the Indianapolis Specialty Union, affiliated with the A. F. of L., contended that the Indianapolis plant should be a separate unit and the Pitman-Moore Employees Independent Union, an unaffiliated labor organization, asserted that the Indianapolis and Zionsville plants constituted an appropriate unit. The Board found the following facts:

"The Indianapolis and Zionsville plants are fifteen miles apart, manufacture different products, and use different raw materials. At the Indianapolis plant, pha-maceutical products are produced and the employees work primarily with drugs and chemicals, whereas the employees at the Zionsville plant manufacture biological products such as vaccines, serums and the like, and work with bacteria, viruses and animals. There does not appear to be any appreciable interchange of employees, raw materials, or semi-manufactured goods between the plants.

"Carl N. Augst, the Company's general manager, testified, however, that the operations of the Indianapolis and Zionsville plants actually could be performed under one roof and that the sole reason for maintaining separate plants was the difficulty of housing at Indianapolis the approximately 2,000 animals used for experimental and manufacturing purposes at Zionsville. While each plant has its own superintendent or director, both are under the executive supervision of a general manager who controls their [fol. 812] policies and labor relations and whose office is at the Indianapolis plant. At meetings attended by the general manager and the directors of the Indiana plants, the conferees direct their consideration to the management of both plants. The financial and office management, sales, advertising, printing and order departments, all located at Indianapolis, serve both plants.[1] Finished products of both plants are shipped by the Indianapolis shipping department. The Zionsville plant's biological products are tested chemically at the Indianapolis plant while certain of the pharmaceutical products of the latter plant receive animal tests at Zionsville that are important in determining the safety with which they may be used. There is no substan-

[1] This is substantially true also of the receiving and purchasing departments, located in Indianapolis.

tial distinction between the wage rates prevailing at the two plants.[2]

It also appears that there is no history of collective bargaining on behalf of employees of either the Indianapolis or the Zionsville plants.

Upon these facts the Board concluded:

"From the foregoing it appears that the two plants might properly be considered either as two separate barga. ing units or as a single unit. Under the circumstances we will be guided by the desires of the employees themselves. Since the record is not sufficiently clear as to the employees' wishes, elections are necessary to make this determination."

[fol. 813] The Court has said in its opinion:

"The Board was required to select the unit which, in its judgment, would best serve the public policy declared in the Act."

However, only Congress can establish the standards by which the announced policy shall be carried out, and the Board must make its selection of a unit upon a basis of those standards. In the cases referred to, the Board has established the factors which it says those standards impel it to follow. It has not followed them here.

Suppose, then, that there subsequently comes before the Board an identical set of facts as here presented and the Board reaches a contrary result? It is, of course, obvious that the application of the same standard to the same facts must lead to but one result. Yet the Court has said that since the question is one upon which reasonable men can differ, it cannot interfere.

This, we think, illustrates the necessity of the Court requiring, as a matter of law, that those factors, consideration of which is obviously essential to a reasonable application of such standards as are contained in the Act, be applied impartially and without regard to what person or what union

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[2] The Independent also points to the fact that when in January, 1940, the International was beginning to organize, its Special Representative mailed notices to employees of both the Indianapolis and Zionsville plants, inviting them to attend an organizational meeting on January 13, 1940."

or unions be involved. To fail to so limit the Board is, we think, to abandon rule by law.

We suggest that unless the Court will require the Board to recognize the limitations of the standards which it admits exist, and to apply them impartially, a long step will have been taken toward a wholly unregulated discretion in the Board to decide the appropriate unit in each case according to what the Board thinks should be decided in that case and without any reference to standards.

[fol. 814]

II

The Decision and Certification and Decision and Order of the Board show upon their face that the Board, in reaching its conclusion as to the appropriate unit, relied, to a very substantial extent, upon findings which are not supported by the evidence. The Board has made specific findings of fact. Upon those specified findings it has based its conclusion as to the appropriate unit. Those findings, in the aggregate, are the very substance and foundation of the Board's order. If those findings have been arrived at after a full and fair hearing; if they are based upon evidence, and if, when they are fairly applied to the standards contained in the Act, a reasonable conclusion is drawn therefrom, then and then only can the conclusion amount to a valid order.

We propose to show the Court that some of the findings made by the Board (and, incidentally, they are the findings to which the Board appears to attach particular importance) are not supported by evidence and are directly contrary to undisputed evidence. Consequently, even though there be evidence in the record which would have empowered the Board to make the order, it is nevertheless unenforceable as a matter of law.

The Court's declaration that it has no power to substitute its judgment for that of the Board has both positive and negative implications. The Court may not say on behalf of the Board that even if the influence of improperly considered findings be eliminated the Board's conclusion would be the same.

The Board's decision and order show that it was profoundly influenced by the following findings, none of which is supported by the evidence, and the Board erred, as a mat-

ter of law, in basing its order, in part or in whole, upon them:

[fol. 815] A. The Board found that the history of collective bargaining supported the inclusion of the Crystal City Plant with the other plants. It is perfectly clear that the Board regarded this finding as one of the most important factors in support of its conclusion and later referred to it as a controlling reason. In Model Blouse Co., 15 N. L. R. B. No. 19 (Sept. 7, 1939), where the facts are strikingly similar to those here involved, the Board in designating a smaller unit, said:

"Although, in previous cases (citing Matter of Pittsburgh Plate Glass Co., 10 N. L. R. B. 111—the decision in R-1058 here under review—and Matter of Libbey-Owens-Ford Plate Glass Company, 10 N. L. R. B. 1470), we have held the employees of a number of plants of one employer to constitute an appropriate unit, there is lacking, in the instant case, *the history of collective bargaining upon which such decisions have rested.*" (Emphasis added.)

In the instant case the Board said:

"Nevertheless, we think that the record is clear throughout not only that the Federation has endeavored at all times to organize on a division-wide basis, but also that in the past contracts have been signed upon such a basis." (R. 1429.)

The contracts referred to by the Board are in writing and are before the Court. They show by their express terms that they can only apply to plants in which the Federation had a local union, and that no local union was formed in Crystal City until February, 1938, and that no charter was granted to such local until April of that year. Furthermore, the National Secretary and Treasurer of the Federation testified that the first time any request was made of the Company to include Crystal City in the agreements was in October, 1936, which was subsequent to the execution of the [fol. 816] contracts referred to by the Board and was just prior to the execution of the contract of January 20, 1937, in which the Crystal City Plant is expressly excluded. These contracts are referred to by Board Member Leiserson in his dissenting opinion as follows:

"The majority justifies this procedure by its finding that the employees in all six plants constitute a single appropri-

ate bargaining unit, but in order to do this the decision disregards the history of collective bargaining with the company and the policies and practices established by the series of contracts made between the Federation and the company."

The Board also finds that the Crystal City employees never tried to bargain separately whereas the undisputed evidence is directly to the contrary.

It is not our intention here to dispute the holding of this Court that there is nothing in the history of collective bargaining which would, as a matter of law, preclude the Board from designating the unit which it chose. We do mean to point out that the Board found that the history of collective bargaining was one of the factors, if not the chief factor, which influenced it to include Crystal City, and that such finding is wholly without support, and is, in fact, contrary to the evidence.

B. The Board emphasized by repetition its assertion that the Crystal City employees are subject to company domination, and that they are not free to express their real desires on the question of appropriate unit.

In this connection we wish to direct the Court's attention to an error in the following statement at page 3 et seq. of the Court's opinion:

"This was the situation when the Federation initiated, [fol. 817] through the National Labor Relations Board, a proceeding which resulted in a determination by the Board that the Company should withdraw its recognition of the Crystal City Glass Workers' Union as the representative of its employees at Crystal City, *on the ground that the union was Company-dominated and supported;* * * *."

There is no evidence that recognition of the Crystal City union was withdrawn on the ground that the union was company-dominated; the Board made no such finding and could not have done so, in that there has not been any evidence in any of the proceedings to support the same.

It is perfectly clear that the findings upon which the Board bases its decision to disregard the wishes of Crystal City employees are wholly unsupported by evidence and should not have been considered by the Board.

It is sometimes suggested that the Board's order is like the verdict of a jury and will not be examined as to the correctness of its interpretation of conflicting facts. If the comparison is to have force, it should be to a special verdict, and if, on its face, it shows that the ultimate conclusion was reached upon a basis of improper or illegal findings of fact, a question of law is presented which may result in the reversal and remanding of the cause.

The issuance of an order which the Board has no power to make under any circumstances so as to be comparable to a case at law in which an outright reversal is indicated, is not the only way in which the Board can act arbitrarily and erroneously.

It is our conviction that upon considering the foregoing the Court will see that only the Board can say what unit it would designate if it is restricted to those findings which are, as a matter of law, available for consideration.

[fol. 818]

III

We call the Court's attention to the fact that in making the following statement it has overlooked the provisions of the Act:

"The Board, under the facts and the circumstances disclosed by the evidence, properly might have determined that the employees at the Crystal City plant were a homogeneous group whose wishes as to representation for the purposes of collective bargaining should be respected and who constituted an appropriate unit for collective bargaining; *but we think that it was not compelled to do so.*" (Emphasis added.)

Section 9 (a) of the Act provides that:

"Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in *a unit* appropriate for such purposes shall be the exclusive representatives of all the employees in such unit * * *."

There is no question upon this record but that the Crystal City plant is an appropriate unit, even though there may be more than one unit which is appropriate. The Board makes no finding in conflict with this declaration, as the Court appears to recognize.

One of the limitations upon the broad discretion of the Board under Section 9 (b) is that they may not deny employees in an appropriate unit their rights by gerrymandering them into a larger unit. Unless there is some finding supported by evidence which contradicts the appropriateness of the normal industrial unit at Crystal City, the Board is compelled, under the Act, to recognize the rights of the employees therein.

In somewhat different language the Board has, in prin-[fol. 819] ciple, recognized from the first that such a limitation does exist. The Board has consistently said that where the considerations are evenly balanced (that is to say, where either of two units would be appropriate), the determining factor is the desire of the men to be affected. An effort is made in this case to be consistent with such declarations, but, as we have pointed out in more detail at page 46 et seq. of our original brief, the reasons assigned by the Board for making an exception in this case are specious and not supported by evidence.

The power given to the Board by the Act is concededly very great; there are but few limitations upon that power. This fact has influenced courts generally to be particularly careful to see that those limitations are not exceeded.

There can be no doubt but that the question of appropriate unit is one about which reasonable men can sharply differ according to their political and economic convictions. We wonder, however, whether the Court, in asserting this fact, has considered that in designating appropriate unit under the Act, such differences can be recognized only when they are differences based upon the standards established by the Act itself.

In addition to the limitation upon the Board's power mentioned above, the clearly announced policy of the Act is to preserve industrial peace by according freedom to employees in the selection of their representatives for purposes of collective bargaining.

Can it be said that men could differ as to whether industrial peace will be promoted by forcing the employees at Crystal City into a larger unit and thereby denying them a free choice in the selection of their bargaining agency?

The conflict that resulted in the establishment of this government was brought about by the determination of the people to be represented by agents selected by them. That

is a principle which, fortunately, has remained dear to our [fol. 820] people. In what way, then, is the policy of the Act supported by the unit which the Board has selected?

Men might believe that the six-plant unit is economically or politically desirable, but can it be said that their belief is actuated by the purposes announced by Congress?

If, in fact, freedom of choice is an aid in preventing industrial strife, then denial of such freedom must invite the opposite result.

The following statements in Mr. Leiserson's dissent are directed to this point:

"Under these circumstances I think the repetition of the legal verbiage about interference, restraint, and coercion is a mistake that tends to frustrate the amicable collective bargaining which the Act is designed to promote.

"This does not seem to me essentially different from the denial of free choice of representatives in cases where employers impose labor organizations on their employees."

We respectfully assert that the imposition of unit made upon the employees at Crystal City by this order does not subject them to the fate to which minorities must be reconciled. They are not a minority. Their employment falls within what is indisputably a unit, and a unit, furthermore, as to which neither the Board nor this Court can find any evidence which justified its elimination because of inappropriateness.

IV

We think the Court should examine the accumulation of declarations and acts by the Board which demonstrate that the determination reached by the Board in this case was not the result of an objective and impartial application of [fol. 821] standards within the limits of valid administrative procedure.

The Board's finding that the employees at Crystal City are not free appears to be based upon the following: Many of the employees at the Crystal City plant belong to the local union; the Company agreed to withdraw recognition from that union: therefore, it must have been guilty of all of the allegations made in the complaint. This is at most a far-fetched and tenuous argument. Nevertheless, when petitioner offered to produce evidence to contradict this conclu-

sion, the Board excluded it. It is true that the Board asserted that the evidence offered would not change its conclusion, but if that is the fact, why did not the Board base its order upon the assumption that the offer did, in truth, represent the fact? For the Board to say that it has reached a conclusion which it will not consider altering, even though contrary evidence is offered, is in itself arbitrary.

Conclusion

It may be possible that despite the awkwardness of the unit designated—the probable dissatisfaction of employees in a normal unit at being deprived of representation—this Company can solve the problem of its labor relations without too great a loss. Regardless, however, of monetary considerations, counsel in this case feel to an unprecedented extent their obligation as officers of this Court. We earnestly believe that the order of the Board is wrong and that it is on its face arbitrary and erroneous. It is our contention that the Court has failed to pass upon decisive points of substance and procedure.

We have no fear that the vigor with which we have tried to endow this motion will be regarded by the Court as indicating any lack of respect or as having any purpose except [fol. 822] full co-operation in a common aim—a just decision and a sound precedent.

Respectfully submitted, Igoe, Carroll, Keefe & McAfee, J. W. McAfee, Attorneys for Movent Pittsburgh Plate Glass Company. Leland Hazard, Joseph T. Owens, of Counsel.

J. W. McAfee, one of the attorneys for Movent Pittsburgh Plate Glass Company, hereby certifies that the sole purpose of the foregoing motion for rehearing is to call attention to material matters of law and fact inadvertently overlooked or left undecided by the Court, as shown by its opinion and the foregoing motion, and that said motion is not made for the purpose of delay, but in good faith and in the belief that a rehearing of this case should be granted.

J. W. McAfee, Attorney for Movent Pittsburgh Plate Glass Company.

[File endorsement omitted.]

[fol. 823] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Nos. 449, 450, 451. Orig. (Consolidated)

[Title omitted]

PETITION OF PETITIONER CRYSTAL CITY GLASS WORKERS' UNION FOR REHEARING—Filed August 6, 1940

Comes now petitioner, Crystal City Glass Workers' Union, within fifteen days after the rendition of the opinion, decision and decree in this cause, on July 23, 1940, and petitions the Court to set aside the same and to grant a rehearing on the issues and matters herein involved. The sole purpose of this petition being to call to the attention of this Honorable Court material matters of law and fact which this petitioner verily believes were inadvertently overlooked by the Court, as shown by its opinion.

[fol. 824] Grounds in Support of Petition

I

The Court inadvertently overlooked the fact that the action of the Board in determining the appropriate bargaining unit without according this petitioner a full hearing was illegal and arbitrary.

II

The Court inadvertently overlooked the fact that the act sedulously protects the rights of employees to self-organization and collective bargaining, and the Board in finding the appropriate bargaining unit should have considered the wishes of the employees at Crystal City and the ultimate effect on their organization, as well as the declared public policy of the act.

[fol. 825] Suggestions

I

We refer here to the exclusion of certain testimony which was offered before the trial examiner by this petitioner. The Board, in affirming the trial examiner, said, in effect, that even if this evidence had been allowed to go into the record and was accepted as true, the Board would not alter

its decision as to what constituted the appropriate bargaining unit; hence, the petitioners had not been prejudiced by the rulings of the trial examiner. Such a ruling is arbitrary. The rules and regulations of the Board, Article III, Section 5, entitled, "Procedure Under Section 9 (c) of the Act for the Investigation and Certification of Representatives," contains a mandatory direction that "It *shall* be the duty of the Trial Examiner to inquire *fully* into the question of representation." The evidence submitted was material on the question of representation, and the Board should not be allowed to say, in derogation of its own rules and regulations, that even if it had considered such testimony it would not change its decision. If this evidence was admissible, petitioner was entitled to its benefit and to bring it before this Court as a part of its record.

The Supreme Court of the United States, in the case of Morgan et al. v. United States et al., 304 U. S. 1, l. c. pp. 14-15, refers to a full, fair and open hearing before administrative agencies as an "inexorable safeguard," and says that in equipping those who administer such agencies with extraordinary powers, congress explicitly recognized and emphasized this requirement by making their action depend upon a "full hearing."

[fol. 826] II

The Court, in its opinion, declared that, "The public interest, as well as that of the various groups of employees of the Company, was to be considered, and the question as to what bargaining unit would best effectuate the purposes of the Act and prevent obstructions to interstate commerce by encouraging collective bargaining and protecting its exercise was a debatable question to be determined by the Board."

But the Board could only determine this question from the facts of this particular case, as applied to the standards imposed by Congress in the act itself.

In the case of National Labor Relations Board v. Carlisle Lumber Co., 99 F. (2), l. c. 537, it is said that "the real purpose of the statute was to deal with obstructions affecting commerce and that such purpose must be controlling in the construction of the act." Keeping that purpose in mind as pertaining to the facts in this case, there is nothing in the Board's decision to indicate that there would be any effect

on commerce, irrespective whom the bargaining representative might be. Certainly there is nothing in the Board's decision which indicates that commerce might be obstructed if this petitioner should be designated the bargaining unit. On the other hand, the evidence showed that the history of collective bargaining at the various plants has been carried on successfully in the past and there is nothing to indicate or anticipate failure in this respect if petitioner was designated the bargaining unit.

Petitioner's members are entitled to the protection of the act; it encourages collective bargaining by protecting the exercise by workers of full freedom of association, self-organization and designation of representatives of their [fol. 827] own choosing for the purpose of negotiating the terms and conditions of their employment. (National Licorice Co. v. National Labor Relations Board, 60 S. Ct. 569, l. c. 576). In this connection the wishes of the employees are an important consideration. And this is especially true in situations like the present, where it becomes the deciding factor.

In the case of Allied Laboratories, Inc., 23 N. L. R. B. 14 (April 25, 1940), the Board, in ordering an election of representatives under a set of facts not unlike the instant proceeding, made the following declaration:

"From the foregoing it appears that the two plants might properly be considered either as two separate bargaining units or as a single unit. Under the circumstances we will be guided by the desires of the employees themselves. Since the record is not sufficiently clear as to the employees' wishes, elections are necessary to make this determination."

To the same effect is the decision of the Board in the case of Globe Machine & Stamping Co., 3 N. L. R. B. No. 25, in which the Board said:

"In such a case, where the considerations are so evenly balanced, the determining factor is the desire of the men themselves."

Petitioner contends that the wishes of the employees at the Crystal City Plant is the deciding factor in the selection of the appropriate bargaining unit for that plant, and to ignore such wishes is unfair, unjust, contrary to the act and arbitrary.

Conclusion

Petitioner earnestly believes, for the reasons herein set forth, that the purposes and policies of the act in ques-
[fol. 828] tion can only be served in this case by allowing the employees at the Crystal City Plant to designate their own bargaining unit; that to deny them that right will destroy their organization and force them to be represented by a representative not of their own choosing. Such action would be arbitrary.

Respectfully submitted, Fred J. Hoffmeister, Attorney for Petitioner, Crystal City Glass Workers' Union.

Certificate of Counsel

Fred J. Hoffmeister, attorney for petitioner, Crystal City Glass Workers' Union, hereby certifies that the foregoing petition for rehearing is filed in good faith and is believed to be meritorious; that it is not vexatious nor filed for delay, but in sincerity and truth, for the reasons therein specified to obtain a rehearing of this cause.

Fred J. Hoffmeister, Attorney for Petitioner, Crystal City Glass Workers' Union.

[File endorsement omitted.]

[fol. 829] In United States Circuit Court of Appeals, Eighth Circuit

[Title omitted]

No. 449, Original

No. 450, Original

No. 451, Original

Order Denying Petitions for Rehearing—August 12, 1940

The motion for rehearing filed by counsel for petitioner Pittsburgh Plate Glass Company and petition for rehearing filed by counsel for petitioner Crystal City Glass Workers' Union, in these causes, having been considered, It is

now here ordered by this Court that the same, be, and they are hereby, denied.

[fol. 830] In United States Circuit of Appeals, Eighth Circuit

Nos. 449, 450, 451 (Consolidated)

[Title omitted]

Motion of Petitioner Pittsburgh Plate Glass Company for Stay of Mandate—Filed August 21, 1940

Now comes Pittsburgh Plate Glass Company and respectfully states that it is one of the petitioners for review herein; that, upon the advice of its counsel, it intends to apply to the Supreme Court of the United States for a writ of certiorari herein and that its counsel are engaged in preparing the petition for such writ.

Wherefore, this petitioner moves the Court to stay the mandate herein for thirty days, pending such application to the Supreme Court of the United States for certiorari.

Pittsburgh Plate Glass Company. By J. W. McAfee, Its Attorney.

Certificate of Counsel

The undersigned respectfully states that he is attorney of record for petitioner Pittsburgh Plate Glass Company; that he is now engaged in preparing the petition for writ of certiorari to the Supreme Court of the United States in this cause; that the foregoing motion is not made for vexation or delay but is filed in good faith and is believed by him to be meritorious.

J. W. McAfee.

[File endorsement omitted.]

[fol. 831] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Nos. 449, 450, 451. Original, Consolidated

[Title omitted]

MOTION OF PETITIONER CRYSTAL CITY GLASS WORKERS' UNION FOR A STAY OF MANDATE—Filed August 21, 1940

Now comes Crystal City Glass Workers' Union and respectfully states that it is one of the petitioners for review herein; that upon the advice of its counsel it intends to apply to the Supreme Court of the United States for a writ of certiorari herein and that its counsel are engaged in preparing the petition for such writ.

Wherefore, this petitioner moves the Court to stay the mandate herein for thirty days pending such application to the Supreme Court of the United States for certiorari.

Crystal City Glass Workers' Union. By Fred J. Hoffmeister, Its Attorney.

Certificate of Counsel

The undersigned respectfully states that he is attorney of record for petitioner, Crystal City Glass Workers' Union; that he is now engaged in preparing the petition for writ of certiorari to the Supreme Court of the United States in this cause; that the foregoing motion is not made for vexation or delay but is filed in good faith and is believed by him to be meritorious.

Fred J. Hoffmeister.

[File endorsement omitted.]

[fol. 832] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

No. 449, Original

No. 450, Original

No. 451, Original

[Title omitted]

ORDER STAYING ISSUANCE OF CERTIFIED COPY OF DECREE—August 26, 1940

On Consideration of the motions of petitioners to stay the issuance of mandate in these matters pending petitions to the Supreme Court of the United States for writ of certiorari, It is now here ordered that the issuance of a certified copy of the decree of this Court of July 23, 1940, to the National Labor Relations Board, be, and the same is hereby, stayed for a period of thirty days from and after this date, and if within said period of thirty days there is filed with the Clerk of this Court a certificate of the Clerk of the Supreme Court of the United States that petitions for writ of certiorari, record and brief have been filed, the stay hereby granted shall continue until the final disposition of the cases by the Supreme Court.

[fol. 833] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Nos. 449, 450, 451 (Consolidated)

[Title omitted]

STIPULATION AS TO THE CONTENTS OF TRANSCRIPT OF THE RECORD ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT—Filed September 3, 1940

It is hereby stipulated and agreed by and between the attorneys for the parties herein that the transcript of the record to be certified by the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit and transmitted to the Clerk of the United States Supreme Court as the transcript of the record in this cause, to be filed in the

United States Supreme Court, with the petition of Pittsburgh Plate Glass Company for writ of certiorari to review the decision in this cause of the United States Circuit Court of Appeals for the Eighth Circuit, shall consist of the following:

(1) Proceedings, record and opinion in the United States Circuit Court of Appeals for the Eighth Circuit.

(2) All of the testimony and exhibits found in the certified transcript of proceedings filed in the United States Circuit Court of Appeals for the Eighth Circuit, with the exception of the following exhibits, which are to be omitted:

[fol. 834]

Designation	Certified Trans. of Proceedings in U. S. Ct. of Appeals, pp.
Board's Ex. I-A, part—(Rules and Regulations of N. L. R. B., Series 1, as amended)	57-82, inclusive
Board's Ex. 4	463-481, inclusive
Intervenor's Exs. 1 and 2	489-550, inclusive
Petitioner's Exs. 5-8, inclusive	630-702, inclusive
Petitioner's Exs. 10-11, inclusive	704-721, inclusive
Respondent's Ex. 1	737-877, inclusive
Board's Ex. 1-a, part—(Rules and Regulations of N. L. R. B., Series 1, as amended)	883-906, inclusive
Board's Exs. 4-A—4-D, inclusive	926-1006, inclusive
Board's Exs. 5-A—5-C, inclusive	1007-1130, inclusive
Board's Exs. 6-A—6-G, inclusive	1131-1293, inclusive
"Intermediate Report" of Webster Powell, Trial Examiner, dated March 18, 1939	1301-1309, inclusive
Transcript of oral argument before N. L. R. B. on June 8, 1939	1381-1420, inclusive

It is further stipulated and agreed that the record hereinabove designated shall constitute the record in this cause to be submitted with the petition for writ of certiorari, as described above, and that the attorneys for Pittsburgh Plate Glass Company may file with the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit a praecipe, directing said Clerk to prepare, certify and for-

[fol.835] ward to the Clerk of the Supreme Court the aforesaid documents as the record in this cause.

It is further stipulated and agreed that in the event the writ of certiorari is granted herein any party shall have the right to have any portion of the aforesaid documents added to the printed record herein and that the expense of such printing shall be borne by petitioners.

(S.) Newman A. Townsend, Acting Solicitor General of the United States.

Dated at Washington, D. C., this 30th day of August, 1940.

Igoe, Carroll, Keefe & McAfee, by (S.) J. W. McAfee, Attorneys for Petitioner, Pittsburgh Plate Glass Company.

Dated at St. Louis, Missouri, this 3rd day of Sept., 1940.

(S.) Fred J. Hoffmeister, Attorney for Petitioner Crystal City Glass Workers' Union.

Dated at St. Louis, Missouri, this 3d day of Sept., 1940.

[File endorsement omitted.]

[fol. 836] IN UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT

Nos. 449, 450, 451 (Consolidated)

[Title omitted]

ADDITIONAL STIPULATION AS TO CONTENTS OF TRANSCRIPT OF RECORD—Filed September 7, 1940

It is hereby stipulated and agreed by and between the attorneys for the parties herein that in addition to the exhibits listed and set out in a "Stipulation as to the Contents of Transcript of the Record on Petition for Writ of Certiorari to the United States Supreme Court," filed in the office of the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit on the 3rd day of September, 1940, the following exhibits and parts of exhibits may be omitted from the Transcript of the Record to be certified by the Clerk of the Circuit Court of Appeals for the Eighth Circuit and transmitted to the Clerk of the United States Supreme Court:

Designation	Certified Trans. of Proceedings In U. S. Ct. of Appeals, pp.
Part of Board's Ex. 1-B	83-86, inclusive
Part of Board's Ex. 1-E	89-92, inclusive
Part of Board's Ex. 2	99
Part of Board's Ex. 1-a	883-906, inclusive
Part of Board's Ex. 1-b	909-914, inclusive

And It Is Hereby Further Stipulated And Agreed that respondent's Ex. 1, pages 729-736, of the original transcript of the record on file with the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit shall be included in the transcript of the record in this cause to be [fol. 837] filed in the United States Supreme Court.

And It Is Further Stipulated and Agreed that in the event the writ of certiorari is granted herein any party shall have the right to have any portion of the aforesaid documents added to the printed record herein and that the expense of such printing shall be borne by petitioners.

(S.) Francis Biddle, Solicitor General of the United States.

Dated at Washington, D. C., this 4th day of Sept., 1940.

Igoe, Carroll, Keefe & McAfee, by (S) J. W. McAfee, Attorneys for Petitioner Pittsburgh Plate Glass Company.

Dated at St. Louis, Missouri, this 3rd day of Sept., 1940.

(S) Fred J. Hoffmeister, Attorney for Petitioner Crystal City Glass Workers' Union.

Dated at St. Louis, Missouri, this 7th day of Sept., 1940.

[File endorsement omitted.]

[fol. 838] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 839] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1940

No. 521

ORDER ALLOWING CERTIORARI—Filed December 9, 1940

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 840] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1940

No. 523

ORDER ALLOWING CERTIORARI—Filed December 9, 1940

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.